

Consultation and engagement on a potential financial compensation/redress scheme for victims/survivors of abuse in care

Report 2 - Analysis and findings of the consultation with victims/survivors

September 2018



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A specific thanks is also extended to the victims/survivors who attended our pilot events to help review and develop the early versions of the question paper for the public consultation. Each individual's patience with the process and the contributions made to the content were instrumental in shaping the final product.

SUPPORT

You may find some of the content of this report upsetting and, as such, you may want to ensure you have someone supportive with you whilst you are reading it. If you become upset and you need immediate help, please contact one of the following support services:

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DISCLAIMER

This report presents the views of participants who took part in the consultation on financial compensation/redress and does not necessarily reflect the views of the Scottish Human Rights Commission (SHRC), the InterAction Action Plan Review Group or the Centre of Excellence for Looked After Children in Scotland (CELCIS).

1 INTRODUCTION

In January 2017, The Centre for Excellence for Looked After Children in Scotland (CELCIS), in partnership with the Scottish Human Rights Commission (SHRC) InterAction Action Plan Review Group (Review Group)¹, was commissioned by the Scottish Government² to take forward a consultation and engagement exercise on a potential financial compensation/redress scheme for individuals who experienced abuse in care in Scotland, as defined by The Terms of Reference of the Scottish Child Abuse Inquiry (SCAI)³.

The main purpose of the consultation and engagement exercise was to gather evidence:

- For the Scottish Government to consider when making its decision on whether to establish a financial compensation/redress scheme
- To inform the Review Group in its development of key recommendations for suggested next steps

The key focus was a national consultation with victims/survivors. In addition, a review was undertaken of available information on financial compensation/redress schemes for victims/survivors of abuse in care that have been implemented around the world. Engagement work was also carried out with residential and foster care providers and other relevant professional groups to gather their initial, high-level views.

This report is intended to present the analysis and findings from the consultation with victims/survivors of abuse in care. This is one of a series of four reports:

- Report 1: Executive summary of the consultation with victim/survivors of abuse in care
- Report 2: Analysis and findings of the consultation of victims/survivors of abuse in care
- Report 3: International Perspectives – a descriptive summary
- Report 4: Initial perspectives from residential and foster care service providers and other relevant professional groups

In addition to the four reports, the Review Group has also submitted key recommendations to the Scottish Government and these are detailed at the end of this report.

¹ The Interaction Action Plan Review Group is a national stakeholder group. It includes representation from survivors, survivor support organisations, service providers, the Scottish Human Rights Commission (SHRC), the Scottish Government, CELCIS and Social Work Scotland. The Group monitors the implementation of the Action Plan on Justice for victims of historic abuse of children in care. Full membership details are in Appendix 1

² See the Deputy First Minister's update to the Scottish Parliament on issues relating to the Child Abuse Inquiry in Scotland on 17 November 2016. Retrieved from <https://news.gov.scot/speeches-and-briefings/update-on-issues-relating-to-the-scottish-child-abuse-inquiry>

³ Terms of Reference for the SCAI. Retrieved from <https://www.childabuseinquiry.scot/about-us/terms-of-reference/>

2 BACKGROUND CONTEXT

2.1 Historic child abuse has been a longstanding human rights concern in Scotland, across the rest of the UK, and internationally^{4 5}. In 2009, the Scottish Government provided funding to the Scottish Human Rights Commission (SHRC) to develop a human rights framework to secure remedies for historic child abuse. Produced in 2010, the Human Rights Framework for Justice and Remedies for Historic Child Abuse⁶ drew on international human rights law as well as the views of victims/survivors.

2.2 In December 2011 Scottish Ministers agreed to engage with an InterAction process (a facilitated negotiation within a human rights framework) to develop an Action Plan to implement the recommendations in the SHRC Framework. This activity took place during 2013 and resulted in the Action Plan on Justice for Victims of Historic Child Abuse⁷, setting out recommendations under two strands: acknowledgement (apology, national record and commemoration), and accountability (reparation, inquiry and access to justice). A diagram detailing the various commitments identified in the Action Plan is set out in Appendix 1.

2.3 The Scottish Government has made progress on a number of these commitments (see Appendix 2), with initiatives including the Scottish Child Abuse Inquiry, the National Confidential Forum, the Apologies (Scotland) Act 2016, Future Pathways – Scotland's In Care Survivor Support Fund, and the Limitation (Childhood Abuse) (Scotland) Act 2017. However, many victims/survivors and the SHRC argue that in the absence of financial compensation/redress, many individuals are still being denied a core element of reparation⁸.

2.4 Reparation packages should include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition⁹. Reparation was included as a commitment in the Action Plan on Justice for Victims of Historic Child Abuse and whilst the establishment of 'Future Pathways', Scotland's In Care Survivor Support Fund, partly addresses some aspects of reparation it does not offer financial compensation/redress.

2.5 In Scotland, although there have been some ex-gratia payments and out of court settlements¹⁰, the main routes to financial compensation/redress for

⁴In 2002 the European Court of Human Rights (ECHR) found that remedies in Scotland for historic child abuse were inadequate. *E and others v UK* (2002) Application No. 33218/96. Among inadequacies highlighted were the limitation of the compensation mechanism to crimes committed after 1964 (thereby excluding older survivors), and how the law around limitation periods in relation to civil remedies was applied in practice.

⁵ Daly, K (2014). *Redressing institutional abuse of children*. pp.199. Basingstoke: Palgrave Macmillan Limited.

⁶ See

http://www.scottishhumanrights.com/media/1285/justicehistoricabusewordhrrframeworkjustice_remedies.doc

⁷ SHRC (2014). *Action Plan on Justice for Victims of Historic Abuse of Children in Care*. Retrieved from <http://www.shrcinteraction.org/Portals/23/Action-Plan-on-Historic-Abuse-of-Children-in-Care-Nov-2013.pdf>

⁸ SHRC (2010). *A human rights framework for the design and implementation of the proposed "Acknowledgement and Accountability Forum" and other remedies for historic child abuse in Scotland*. Retrieved from <http://www.scottishhumanrights.com/justice/historic-child-abuse/>.

⁹ Ibid.

¹⁰ Marshall, C. (2015, July 26). 'Scots councils paid £1.5m to child abuse victims'. *The Scotsman*. Retrieved from <http://www.scotsman.com/news/politics/scots-councils-paid-1-5m-to-childabuse-victims-1-3841084>.

individuals who have experienced abuse in care are, currently, through the civil courts or the Criminal Injuries Compensation Scheme. The Limitation (Childhood Abuse) (Scotland) Act 2017 and the removal of the time bar allows greater numbers of victims/survivors to access the civil courts by pursuing financial payment through civil damages. However, individuals who experienced abuse before 1964 remain unable to access this route¹¹; for others, whilst this option remains a choice, it can present a number of potential challenges.

2.6 Victims/survivors have been noted to encounter a range of barriers when attempting to access civil justice elsewhere in the UK^{12 13}. These include issues relating to the adversarial environment created by having a defender and pursuer, as well as challenges in accessing appropriate legal representation, assessing and proving causation and quantifying damages, securing evidence and establishing liability¹⁴.

2.7 In addition, whilst Scotland has the Scottish Child Abuse Inquiry in process, financial compensation/redress is not specified in the Inquiry's terms of reference (unlike some other countries); they can consider the matter, but they do not have the power to award compensation payments. This consultation, and submission of the findings and recommendations to the Scottish Government, is taking place before the Scottish Child Abuse Inquiry has concluded its work and is independent from that process.

2.8 On 17th November 2016, the Deputy First Minister, Mr John Swinney, acknowledged that, while elements of reparation were in place in Scotland, it was time to explore the specific matter of financial compensation/redress, making the following statement to the Scottish Parliament and at the same time, setting the context for this consultation:

"By redress in this context I mean monetary payment to provide tangible recognition of the harm done, as part of a wider package of reparations which this Government is already delivering... I have examined very carefully the issues around the provision of redress... I am therefore committing to a formal process of consultation and engagement on this specific issue with survivors and other relevant parties, to fully explore the issues and gather a wider range of views." ¹⁵

¹¹ SHRC (2017). *Effective Remedies for pre-1964 survivors*. Retrieved from <http://www.scottishhumanrights.com/justice/historic-child-abuse/The Criminal Injuries Compensation Scheme> (CICS) is also not an option in most cases; the CICS was established on 1 August 1964, and therefore any injuries that occurred before that date are not covered by the scheme.

¹² Ulster University (2016). *A Compensation Framework for Historic Abuses in Residential Institutions*. Retrieved from <http://uir.ulster.ac.uk/34640/1/WSW%20FINAL%20APPROVED.pdf>.

¹³ IICSA Independent Inquiry into Child Sexual Abuse. Civil Justice System Issues Paper: A summary of the themes raised by participants.

¹⁴ Ibid.

¹⁵ Scottish Government (2016). *John Swinney: Update to Parliament on issues relating to the Child Abuse Inquiry in Scotland*. Retrieved from <https://news.gov.scot/speeches-and-briefings/update-on-issues-relating-to-the-scottish-child-abuse-inquiry>.

2.9 In summary, a financial compensation/redress scheme for victims/survivors of abuse in care in Scotland would offer an alternative route for those who are unable to, or choose not to, pursue financial compensation through existing routes, such as civil courts or the Criminal Injuries Compensation Scheme. In addition, such a scheme would provide a core additional element of a broader reparation package for victims/survivors of abuse in care.

3 THE CONSULTATION AND ENGAGEMENT PROCESS

The role of the InterAction Action Plan Review Group

3.1 CELCIS carried out the consultation and engagement exercise in partnership with the Review Group. This was intended to ensure victim/survivor representation throughout the development and delivery of the work. The Review Group contributed to the design of the overall process, the development of the consultation questions and to shaping the scope of each of the three distinct work streams:

- The victim/survivor consultation
- The international evidence review
- The high level engagement with residential and foster care service providers and other relevant professional groups.

3.2 The partnership work was undertaken over a series of Review Group meetings and a number of separate survivor subgroup meetings¹⁶. The Review Group had final sign off at all key project stages, including all final published reports and the formal recommendations presented to the Scottish Government. Further details on Review Group membership is provided in Appendix 3.

The development of the questionnaire

3.3 Building on a rapid and brief review of relevant evidence on financial compensation/redress schemes around the world and the work to date in Scotland, CELCIS developed an initial set of proposed questions for the consultation. These were reviewed with members of the Review Group, and then further refined by victims/survivors who attended two separate pilot sessions.

3.4 The final questions were structured under the following themes:

- Eligibility
- Information required to support applications
- Choice of support for victims/survivors making an application
- Administration and decision-making
- Type of payment
- Approach to determining payment amounts
- The role of Scottish Government and others

Scope of the victim/survivor consultation

3.5 The consultation was open to all victims/survivors of historical abuse in care as defined by the Terms of Reference of the Scottish Child Abuse Inquiry¹⁷.

¹⁶ A total of 21 Review Group and survivor subgroup meetings took place between January 2017 and August 2018

¹⁷ Terms of Reference for the SCAI. Retrieved from <https://www.childabuseinquiry.scot/about-us/terms-of-reference/>.

3.6 The consultation was open from 4 September 2017 until 17 November 2017.

Methodology

3.7 As noted, a collaborative approach was undertaken in the design, development and delivery of the consultation. The Review Group was keen to reach as many survivors as possible and had, from the outset, acknowledged a range of potential barriers to participation, particularly due to the emotional and technical content of the questionnaire. In response, awareness raising and a mixed methodology, with appropriate supports to facilitate engagement were set up, to promote participation and minimise barriers.

3.8 General media activities, such as press engagement and a social media campaign, were implemented. Direct communication with victim/survivor organisations and other relevant or universal services (for example, housing, social work and health) took place, and direct engagement was also carried out by some victim/survivor partner organisations who contacted their own members and promoted the consultation on their websites.

3.9 The supports provided by CELCIS to facilitate engagement included a dedicated free telephone consultation help-line and the opportunity for CELCIS staff to visit existing established victim/survivor groups to discuss the consultation. Central to all engagement activities to support a safe environment were the use of a long-established set of principles originating from early Review Group work¹⁸: do no harm, voice, being heard, respectful treatment and constructive engagement.

3.10 A list of the questions from the consultation questionnaire is contained within Appendix 4 of this report. The questionnaire was made available to victims/survivors in the following ways:

- As a download from the CELCIS website that could be printed
- As an online version¹⁹ that could be accessed via PC or mobile phone
- As a paper questionnaire sent by post via established victim/survivor support organisations
- As a paper questionnaire posted directly from CELCIS when requested by individuals

Analysis of responses

3.11 The questionnaire generated both quantitative responses (for example, how many people said 'yes' or 'no' to a particular question) and qualitative responses (broader comments made by participants).

¹⁸ Adapted from the original Principles used for the InterAction: Scottish Human Rights Commission and Centre for Excellence for Looked After Children in Scotland InterAction on Justice for Historic Child Abuse.

¹⁹ The online questionnaire was replicated from the paper version and created on Qualtrics, a web-based survey platform used to conduct survey research, evaluations and other data collection activities.

3.12 The qualitative responses (all comments received) were analysed using a thematic analysis approach adapted from Braun and Clark (2006)²⁰. Thematic analysis is a rigorous method for analysing, sorting, identifying and reporting themes in a dataset, and a hybrid approach of deductive and inductive coding was used when identifying emerging themes²¹.

3.13 This rigorous approach provided the advantage of capturing important themes relating to the questionnaire whilst also ensuring that any additional key messages that victims/survivors shared were fully portrayed.

Limitations

3.14 The views contained in this report reflect those of the participants who took part in this consultation. As noted previously, responses to the consultation were gathered in a range of ways: telephone, online, postal and through small group events. CELCIS staff involved in facilitation received relevant training and used structured processes to help ensure a consistent and reliable approach when gathering and recording individual views. However, it is acknowledged that individuals could have taken part in more than one way, for example, by post as well as online. It is also not possible to include every issue raised in the responses, either because there was a level of personal detail that was not appropriate to share, or because issues fell out with the consultation framework. The anonymous nature of participation, along with the possibility of participants responding in more than one way is a limitation of the analysis. However, every effort has been made to include information from the full range of responses to the consultation.

Presentation and language

3.15 The framework of the consultation questionnaire was used to structure the analysis and this report, within which the main themes and issues in the responses have been drawn out.

3.16 Given the limitations outlined above, the analysis has used more approximate terms to indicate the level of consensus or differences of opinion in relation to particular issues. Phrases such as 'most victims/survivors' or 'less than half victims'/survivors' have therefore been used to show the extent to which participants identified particular issues. The details of language used is as follows:

²⁰ Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), pp. 77-101. Retrieved from http://eprints.uwe.ac.uk/11735/2/thematic_analysis_revised.

²¹ Fereday, J. & Muir-Cochrane, E. (2006). Demonstrating rigor using thematic analysis: a hybrid approach of inductive and deductive coding and theme development. *International Journal of Qualitative Methods*, 5(1), p.80-92. Retrieved from: https://sites.ualberta.ca/~iiqm/backissues/5_1/PDF/FEREDAY.PDF.

Almost all	means	over 90%
Most	means	75% to 90%
Majority	means	51% to 74%
Half	means	50%
Less than half	means	15% to 49%
Few	means	up to 15%

3.17 For quantitative responses, in instances where percentages (%) have been used to present information, these have been rounded off to the nearest whole number, and, therefore, there may be instances where the total does not add up to 100 per cent.

3.18 In an endeavour to incorporate all qualitative responses into the analysis, a system to manage and track the movement of comments was used; for example, in cases where a participant's response to a question provided comment on various different themes (for example, one response could discuss the impact of abuse, the meaning of financial redress and suggestions for a scheme design), we 'split' the response (into the different elements) to incorporate all comments. In instances where a comment, or indeed a whole response, related to another question entirely, it was included within the analysis of the question it related to, rather than the original question in which it was sourced. In the rare occasion where one comment related to two themes or questions, it was duplicated and incorporated within both.

3.19 For clarity, the total 'number of comments' used within the qualitative analysis of each question comprises:

- The total number of relevant comments left within that question plus any relevant comments from other questions
- The total number excludes comments that are incorporated within general themes (refer to the General Themes section of this report) and those that do not provide any further information, for example, 'N/A' or *'nothing further to add'*

3.20 A breakdown of the comment totals for each question and their original source is provided within Appendix 5.

Verification

3.21 The Review Group recommended that an independent verification process should be in place to review the processes for the gathering, analysis and reporting of responses during the survivor consultation. This was intended to provide an additional layer of independence, scrutiny and quality assurance. Further details on the process of verification is provided in Appendix 6.

3.22 An independent consultant and a representative from SHRC undertook this task, initially between 27 November and 8 December 2017, and again for the final stage between June and August 2018. To support their work, verifiers drew on an evidence-based framework following the seven principles of the Consultation Charter²²: Integrity, Visibility, Accessibility, Transparency, Disclosure, Fair Interpretation and Publication. The Review Group was satisfied that the verification process was robust and in-depth. Overall, the feedback from the verifiers at initial and final stage was very positive. This provided the Review Group with confidence with the quality of work and with the procedures in place.

Confidentiality and data management

3.23 All information was handled sensitively and respectfully by CELCIS staff and any associated staff who were involved in the gathering, recording and analysis of responses. Appropriate guidelines and procedures in relation to confidentiality, General Data Protection Regulation (GDPR) and the Data Protection Act (2018) were in place and adhered to. Independent verifiers did not have access to the personal information of participants in the consultation.

²² The Consultation Institute (2017). *The consultation charter*. Retrieved from <https://3d8qxnz7q9pw2411lsz7k14t-wpengine.netdna-ssl.com/wp-content/uploads/2017/11/The-Consultation-Charter-2017-edition.pdf>.

4 VICTIM/SURVIVOR RESPONSES TO THE CONSULTATION

Participant Information

4.1 In total, 181 questionnaires were submitted to the consultation, of which 53 were submitted online and 128 were returned by paper questionnaire (182 were postal, 35 were completed at group events and 11 were via the telephone helpline). Four group events organised by two separate survivor support organisations were facilitated by CELCIS

4.2 Of 181 participants who took part in the consultation, 157 (87 per cent) were victims/survivors, 13 (7 per cent) were on behalf of a victim/survivor, four (2 per cent) were on behalf of a deceased victim/survivor, and two (1 per cent) were on behalf of a support organisation.

4.3 Originally, five participants selected the 'other' category and nine did not respond to the question determining the participant type. However, on reviewing their full questionnaires, it was clear (from the responses they provided across all questions) that eight cases could be included within the 'as an individual victim/survivor' participant category, and one case within the 'on behalf of a victim/survivor support organisation' category.

4.4 Therefore one response (1 per cent) remained in the 'other' category, and four (2 per cent) could not be categorised. The details of participant type are as follows:

Participant by participant type		
	No.	%
As an individual victim/survivor	157	86.7%
On behalf of an individual victim/survivor	13	7.2%
On behalf of a deceased victim/survivor	4	2.2%
On behalf of a victim/survivor support organisation	2	1.1%
Other	1	0.6%
No response given to question	4	2.2%
Total Participants	181	100%

4.5 The five participants who originally selected the 'other' category included:

- An individual member of the public working within a third sector organisation, remaining in 'other' category
- Two individuals who completed the questionnaire on behalf of themselves and their sibling(s), now included in the 'individual victim/survivor' category
- An individual who completed it on behalf of a survivor support organisation, now included in the 'on behalf of a victim/survivor organisation' category
- An individual who identified themselves as being an individual survivor across other questions (as opposed to victim/survivor as provided in the question option), now included in the 'individual victim/survivor' category

4.6 It should be noted that three participants who left further comment on the redress scheme (under Question 17) took the opportunity to comment on the terminology being used to describe victims/survivors; two participants advised that they identify the most with being a survivor and not a victim, while one participant shared that they consider themselves to be both a victim and a survivor.

Comments relating to consultation participation

4.7 Participants took the opportunity to comment on the process of taking part in the consultation. Thirty-three comments were received from participants about the sensitivities of participation in the consultation or the technical nature of particular questions. The questions that seemed to evoke the majority of comments (over 50 per cent) were in relation to payment approaches. In addition, a few participants noted that some questions were difficult to understand, and others noted the emotional impact of taking part in the consultation. This underlines the need for any potential scheme to consider how it can maximise its accessibility and minimise the emotional impact on its applicants.

General themes

4.8 The consultation was structured around a series of relatively tightly focused questions and the responses to these are outlined in Section 4. However, a number of cross cutting themes were also evident in responses across more than one question and these are summarised first.

4.9 Eleven themes were identified and, they are presented within this section to provide an overview and avoid too much repetition through the report. Across all questions, 554 comments have been incorporated here.

4.10 The themes identified were: principles; experience and impact of abuse; trust and mistrust; meaning of financial redress; purpose and function of redress; scheme development and design; the timing of redress; accessible and

available information on redress; broader redress and reparation; protection, prevention and awareness raising; and further action and investigations.

Principles

4.11 Across questions, participants reflected the importance of principles such as choice, fairness, respect and individuality, both in terms of victim/survivor needs and wishes, and in relation to redress processes and outcomes. The need for recognition of individual circumstances was highlighted in a range of ways, including views expressed regarding existing and/or potential supports, and the approach, meaning and outcome of any financial payment.

4.12 Victim/survivor voice and the need for integrity in the process, as well as amongst the professionals involved with any potential scheme, were also emphasised. The process was viewed as needing to be simple, easy to access, supportive and transparent, and that professionals should be accountable for any decision-making. Specific principles were also raised in relation to interim payments, where it was felt that this option would be just, moral and right.

4.13 A key message from participants was the importance of keeping a focus on victim/survivor needs and of understanding how the impact of trauma may influence how a victim/survivor will understand, manage and experience any financial compensation/redress process.

Experience and impact of abuse

4.14 Within the consultation, victims/survivors were not specifically asked about their own individual abuse experience or the impact of this on their lives. However, often in order to support and explain their answers, participants made reference to their experience prior to being taken into care, the nature of abuse experienced in care and the challenges of disclosing abuse. Reference was also made to different types of abuse, and the cumulative and long-term impact of the abuse throughout the life of the victim/survivor - this affected all aspects of development, especially psychological and psychosocial and victim/survivor opportunities. The impact on the families of victims/survivor was also highlighted. Despite abuse experiences, a range of examples of resilience were provided, including lifelong friendships, becoming a parent, and sustaining employment.

Mistrust and trust

4.15 Mistrust was a recurring theme, with concerns generally relating to past experiences and across a number of different contexts. Reference was made to mistrust in care and post-care, and the potential of this continuing into any future developments, including financial redress. These feelings were directed towards many different organisations, including the Scottish Government, religious bodies, the police, justice services and professional organisations.

Meaning of financial compensation/redress

4.16 Responses suggested that financial compensation/redress would mean that victims/survivors had achieved some form of justice. It was felt that financial compensation/redress would provide recognition and validation for victims/survivors that their experience of abuse was believed; it would allow individuals to 'get on with their lives' and may provide some with closure. In respect of next of kin of deceased victims/survivors, it was felt that financial redress could honour the victim/survivor and recognise the support of their family. The relationship between redress and closure was particularly evident in the responses to the questions relating to next-of-kin of deceased victims/survivors, priority circumstances, interim payments, and the role of the Scottish Government and others.

4.17 Some participants raised the difficulties of placing a monetary figure on human suffering were also raised, as was whether it was possible that abuse or human rights violations could actually be measured and quantified. It was felt that payment could not fully compensate for the abuse suffered, could initially feel like 'paying off a problem', and would not replace the lack of care, lost childhood and adulthood, nor make up for its lifelong impact. However, participants also felt that a payment could possibly help in other ways, some of which are outlined in more detail below.

Purpose and function of financial redress

4.18 The ways in which a financial payment could help and influence the individual situations of victims/survivors were described in a number of ways. Suggestions included improving wellbeing and circumstances, reducing financial and other worries, and helping to access immediate support or securing items of urgent need. In the case of next-of-kin of deceased victims/survivors, participants suggested that a payment could help individuals move on, and improve and secure opportunities for the families of deceased victims/survivors. Interim payments, in particular, were thought to perhaps offer immediate financial help to older or infirm victims/survivors, assist them with end of life plans including funeral costs, and help them spend quality time with their loved ones.

Scheme development and administration

4.19 Elements of potential scheme development and administration were also mentioned. Participants felt that all victims/survivors should be eligible to be compensated. There was a concern expressed that if certain groups' applications were prioritised - those who experienced abuse before 1964 were cited as one example - this could be viewed as discriminatory and may, therefore, be challenged in court. In submitting applications, it was suggested that one sibling should be able to apply for all siblings (where appropriate), all applicants should be able to retain a copy of their application and that administrators needed to be aware of the potential for false claims to ensure the integrity of the scheme.

4.20 Victims/survivors' access to criminal and/or civil routes was also mentioned; one view was that they should retain access to criminal and/or civil routes, another view was that if victims/survivors had already been successful within a civil or criminal court and had been awarded and received payment already, they should be excluded from applying to a potential scheme.

4.21 Comments on the payment process were also featured across questions, and expectations about the level of payment were that it should be fair, that the crime perpetrated is reflected in the award and be what victims/survivors are entitled to. Participants also expected that payments will be generous to help recovery and help individuals to live comfortably; it was expected that compensation for Scotland's victims/survivors would not be any less than in other countries. One participant suggested that a figure of £100,000 be awarded to each victim/survivor.

4.22 The importance of victims/survivors having a choice regarding how payments are issued was also raised. Suggestions included payment being issued either as a lump sum or over several weekly or monthly instalments and, in the event of the death of a victim/survivor, that payment should be relinquished to family.

4.23 Participants noted concerns around potential negative consequences of payment. These included the need for support to protect vulnerable victims/survivors, that the payment should not negatively impact victims/survivors (for example, benefits, savings or pensions), nor should it result in further harm for victims/survivors who are already suffering from drug or alcohol misuse.

4.24 It was noted by participants that scheme costs should be focused on victims/survivors rather than on the administration of the scheme or legal costs and should not get 'out of control' to the extent that victims/survivors receive lesser awards. Others felt that professionals - independent experts, professional groups and organisations - have already been 'paid a great deal of money' and that victims/survivors should now receive something tangible by way of financial settlement. The current lack of a financial compensation/redress scheme was seen to be preventing some victims/survivors from reporting their abuse.

The timing of redress provision

4.25 Victims/survivors described waiting years for financial compensation/redress and felt individuals had already waited long enough. There was concern about the number of individuals who have already died, and about those who may die before their application is processed. It was stated that the Scottish Government needs to take urgent action and there was mistrust that they were intentionally delaying redress to ease the financial redress burden.

Accessible and available information on remedies, redress and reparation

4.26 Access to relevant information is a recognised element of an effective remedy²³. It was clear from responses that accurate information on relevant and current policies, practices and remedies relating to redress were not always available for participants. There were indications from participants that information on current services, processes and systems in place had either been inaccessible or had perhaps been misunderstood. This included information on the retention and storage of records, the limits of and options for civil damages, and current residential child care inspection and safeguarding regulations.

Broader remedies, redress and reparation

4.27 The need for broader redress and reparation was featured across most questions. Experience of existing financial compensation/redress routes was discussed by a few participants who had mixed experiences of the civil courts; one participant felt grateful for the experience and articulated a sense of relief, others felt that it was not always successful, lacked emotional support and, in one instance, a payment awarded had not yet been received. Aspects of the Scottish Child Abuse Inquiry were also referred to; comments highlighted that it offers the opportunity for victims'/survivors' experiences to be heard as a collective, provides the opportunity for victims/survivors to discuss their experiences in private, is helping to raise awareness and improve understanding of their experiences, and may improve levels of support for victims/survivors.

4.28 Broader remedy and reparation needs that extend beyond financial compensation/redress were a key feature noted by participants, particularly amongst responses to the questions around types of supports. Suggestions included the need for an apology and acknowledgement from the Scottish Government and from relevant service providers, and a full and truthful explanation as to what abuses occurred and why. A range of supports were also suggested, including practical support to access education and employment, housing support, communication and life skills, mentoring, drug and alcohol rehabilitation and tracing lost family members. Emotional and mental health supports suggested included: counselling; a 24/7 helpline providing specialist support for victims/survivors to help them come to terms with and cope with the impact; a drop-in centre; financial advice and guidance, for example, income maximisation and emergency fund for victims/survivors when they need it; legal support to understand options relating to civil and/or criminal court action; and alternative therapies, such as self-help, nutrition, art, music, meditation and mindfulness.

²³ SHRC (2010). A human rights framework for the design and implementation of the proposed "Acknowledgement and Accountability Forum" and other remedies for historic child abuse in Scotland. Retrieved from <http://www.scottishhumanrights.com/justice/historic-child-abuse/>

4.29 The importance of individual choice and having relevant supports in place for each victim/survivor were also highlighted. The lack of availability, accessibility, awareness and effectiveness of supports were among concerns relating to existing supports, as was the potential for mistrust and the perceptions of victims/survivors hampering engagement. The need for services to be vetted was suggested and reference was made to supports being seen to be diminishing despite the aims of the SHRC Action Plan.

Protection, prevention and awareness raising

4.30 A number of participants felt that lessons must be learned from historic abuse. Among suggestions were increased protection for vulnerable children in and out of care, which included having more ways for children to be heard, for emotional support to be provided for all care-experienced children, and for no child to ever be placed in a home such as those experienced by victims/survivors of historic abuse.

4.31 Vetting and monitoring of care providers and their staff to ensure that the abuse of children does not occur again was also amongst the protective measures suggested. Suggestions also included the setting up of a group that has victims/survivors as members, to work alongside agencies to help monitor institutions and oversee the checking and vetting of staff.

4.32 Raising the awareness of professionals (for example, counsellors, service providers and staff from hospitals, schools and shops) through education and training was also suggested, to help inform how victims/survivors should be treated and how to work with people with mental health issues. The professional development of police officers was highlighted as a 'top priority' to ensure they understood how to adequately respond to, record and investigate reports of abuse.

4.33 Participants felt that victims/survivors should be given the opportunity to address the Scottish Parliament to help decision makers see the real people behind historic abuse and to help them understand the individual experiences and the lifelong impact of abuse. Providing victims/survivors with 'media access', as a mechanism to help them recount their experience to a wider audience, was also highlighted as another possible means to raise awareness and help prevent abuse from happening in the future.

Further action and investigations

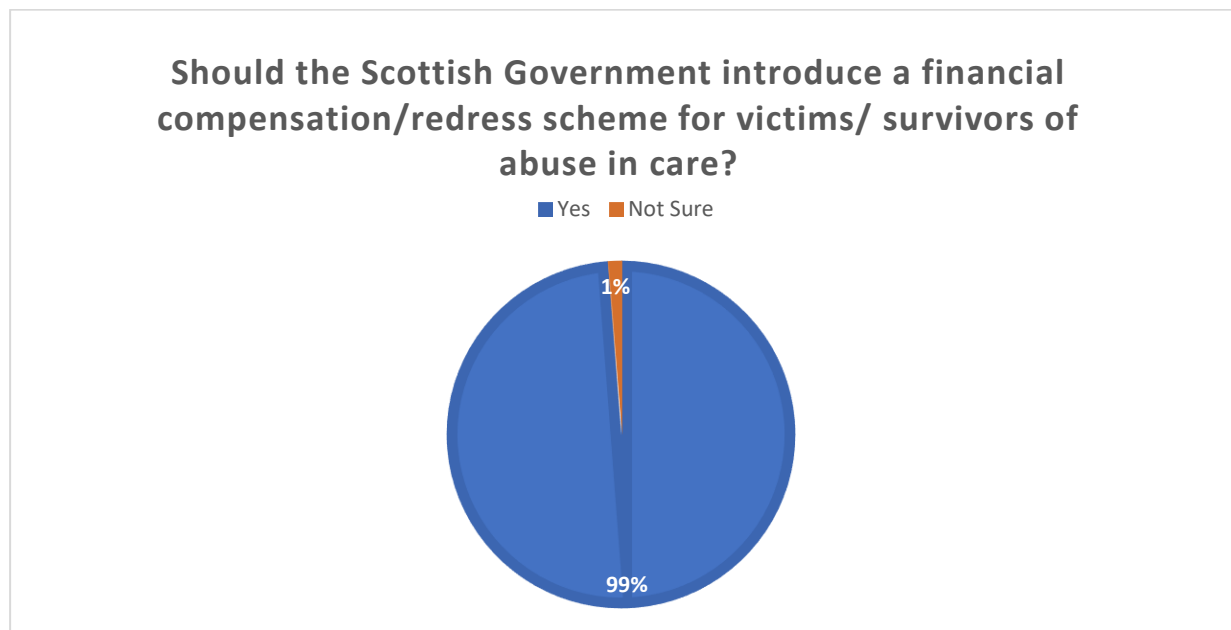
4.34 Further areas of historic abuse were highlighted by participants as requiring additional action or investigation. This included specific reference to recent comments by leaders of one religious order about the connections and structure of their organisation, which it was suggested should be tested in court. Also highlighted were: having an inquiry into, and the acknowledgement of, the

treatment of the travelling community, including the 'racial experiment',²⁴ and of children being placed and shipped abroad into care; current legislation (no further information was provided); undertaking investigations into all agencies (social work, doctors and children's homes); the mishandling of investigations into historic child abuse; the actions of a procurator fiscal in a criminal trial; and the perceived discrepancy in the balance of an existing survivors' fund that is not being explained, despite requests.

4.35 The section below outlines the responses and comments relating to each of the 17 questions.

Question 1: A Scheme for Scotland

4.36 Participants were asked whether they thought the Scottish Government should introduce a financial compensation/redress scheme for victims/survivors of abuse in care. Of the 163 participants who answered this question, almost all participants (99 per cent) felt that a scheme should be implemented and two participants were unsure.

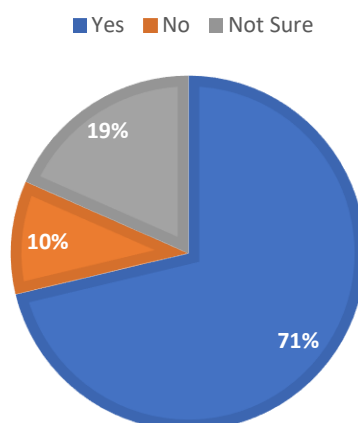


Question 2: Eligibility of next of kin

4.37 Participants were asked whether next-of-kin should be eligible to make an application in cases where a victim/survivor of historic childhood abuse had died prior to a financial scheme being implemented. Of the 174 participants who answered this question, the majority of participants (71 per cent) supported the idea of next-of-kin of a deceased victim/survivor being eligible to apply, while 10 per cent considered they should not be eligible and 18 per cent were unsure.

²⁴ Allan, V. (2017, December 10). Racial engineering being referred to has been described as a distinct type of abuse of those within the travelling community. *The Herald*. Retrieved from http://www.heraldscotland.com/news/15712520.Gypsy_Travellers__Scotland_s_human_rights_shame.

Should next-of-kin should be eligible to make an application in cases where a victim/survivor has died?



4.38 All four participants who completed the questionnaire on behalf of a deceased victim/survivor answered this question and all felt that deceased victim/survivor next-of-kin should be able to apply.

4.39 Participants were given the opportunity to explain their reasons for their choice and a total of 210 comments were used in the analysis of this question.

Support for next-of-kin eligibility

4.40 Reflecting the fact that the majority of participants supported next-of-kin eligibility, the largest number of comments received supported next-of-kin eligibility. General support was expressed in terms of it being right and fair that families should be compensated and, while caution was expressed that next-of-kin should not be burdened, comments suggested that next-of-kin should not be excluded from eligibility. Sadness was conveyed for victims/survivors who died without having received support, and one suggestion was that financial compensation could form part of the rehabilitation process for next-of-kin.

4.41 Other participants expressed support for next-of-kin eligibility by advising that they would like their own next-of-kin to be eligible to apply for compensation in the event of them dying before achieving financial compensation/redress. It was felt that compensation should be treated like possessions in a will and should be automatically transferred to next-of-kin of a victim/survivor in the event of their death. It was also expressed that next-of-kin were just as important as victims/survivors, and that victims/survivors would rest easy if they knew that their children would still be eligible to apply in the event they died before a scheme is implemented.

4.42 Support for next-of-kin eligibility was also felt by participants to be justified by the impact that victims'/survivors' abuse had on next-of-kin. It was noted that next-of-kin were indirect victims because they had to cope with the aftermath of the abuse and deal with the ongoing, lifelong damage and the daily knock on effect it had on the whole family. Participants mentioned next-of-kin having to coping with mental health issues of victims/survivors (for example,

PTSD, anxiety and attempted suicide), alcoholism, being unable to co-parent effectively, domestic violence, and spousal and family relationships breaking-up. The emotional impact on next-of-kin was also mentioned, and included feelings of helplessness (due to sometimes not knowing how to help victims/survivors of abuse), coping with sleeplessness, and stress. The loss of victims/survivors to premature death/suicide was also highlighted as an impact. Examples were also provided of the negative impact on children of victims/survivors, which included their parent being unable to form an emotional bond with them, exposure to domestic abuse, being put into care themselves, and the loss of their parent through premature death/suicide.

4.43 The meaning that next-of-kin eligibility would have for victims/survivors themselves and for next-of-kin was also conveyed. Next-of-kin eligibility was viewed as a further acknowledgement of the abuse victims/survivors suffered as children; it would express justice and recognition of past mistakes. Participants felt it would allow next-of-kin to continue the fight for justice for victims/survivors, and it would honour and recognise deceased victims'/survivors' fight for justice. It was also felt that next-of-kin should not be penalised for the delays in implementing a redress scheme as this would be a further betrayal. Compensation could help their next-of-kin move on, could provide education and could secure the future well-being of their children. Participants noted that it would also be a recognition of the support next-of-kin have provided victims/survivors of abuse through their patience, love and understanding.

4.44 Suggestions were also made about how financial compensation/redress for next-of-kin might be handled. For example, one participant suggested that compensation for next-of-kin should be split equally between next-of-kin and children. It was also suggested that a trust fund could be set up for next-of-kin, and deceased victims'/survivors' children. Other suggestions included that next-of-kin compensation should be less than that for victims/survivors, and that if next-of-kin was in name only then their compensation should instead be given to a children's charity in the name of the deceased victim/survivor.

Next-of-kin eligibility should be conditional

4.45 There were participants who felt that next-of-kin eligibility should be conditional, and comments relating to this theme were received from participants across all response types (i.e. yes, no, not sure). It was suggested that only particular next-of-kin should be eligible, for example, children, spouses, siblings and the next-of-kin of pre-1964²⁵ victims/survivors. The quality of relationship between next-of-kin and victims/survivors was a particular issue for participants across all response types in that next-of-kin should only be eligible if they had not themselves abused the victim/survivor.

²⁵ SHRC (2017) Effective Remedies for pre-1964 survivors. Retrieved from <http://www.scottishhumanrights.com/justice/historic-child-abuse/>.

4.46 It was also mentioned that siblings should be eligible if the victim/survivor had no life insurance, and that the next-of-kin of deceased victims/survivors from the pre-1964 group should be eligible as recognition of that group of victims/survivors.

4.47 It was also expressed that where a deceased victim/survivor had never disclosed their abuse to their children they should not be included for eligibility.

4.48 Others suggested that next-of-kin eligibility should depend on individual circumstances and that each case should be judged on its own merits. Among the circumstances mentioned were that next-of-kin eligibility should depend on the level of impact that the victim's/survivor's abuse had on them, that next-of-kin should only be considered where they had suffered themselves due to the effect the abuse had on the victim/survivor, and if the death/suicide of a victim/survivor was a direct consequence of the abuse. It was also suggested that next-of-kin should only be eligible if the victim/survivor had stated that they would like their next-of-kin to apply for compensation and had recorded who their next-of-kin were.

Next-of-kin should not be eligible

4.49 The majority of comments within this theme were received from those who stated that next-of-kin should not be eligible to apply for financial compensation/redress. Justification for this included that it was felt by participants that the abuse experienced was personal to victims/survivors and that next-of-kin did not suffer the physical or psychological abuse directly. Others disclosed that their own next-of-kin would not expect to be compensated. It was also expressed that eligibility for next-of-kin of deceased victims/survivors would be unfair on other victims/survivors, and that compensation should only be for victims/survivors who are still suffering.

Concerns relating next-of-kin eligibility

4.50 General concerns were expressed regarding next-of-kin eligibility and the majority were from those who were unsure about next-of-kin eligibility. There was concern from participants that abuse may never have been previously disclosed to next-of-kin, and that some victims/survivors may not want their children to know about their abuse. It was noted that it might also be difficult for next-of-kin to apply if the victim/survivor was deceased, that next-of-kin may not know all the facts regarding the abuse of the deceased victim/survivor, and that next-of-kin may not have sufficient evidence to apply for compensation. There was also concern expressed for next-of-kin about additional stress that could be experienced by them receiving compensation, knowing that it related to their deceased family member's abuse, and about the potential negative consequences of receiving compensation, such as spending it on drugs.

4.51 The issue of the quality of victims'/survivors' relationships with their next of kin was noted in relation to eligibility of next-of-kin being conditional. Other related concerns were raised, including that the legal next-of-kin may not be the

person who was closest to the victim/survivor, and that someone estranged from the victim/survivor, such as an ex-partner, may apply for compensation. This links to a further concern about the scope for eligibility being too wide, which could leave the potential scheme open to fraudulent claims, and a question was raised as to where the parameters for eligibility would stop.

Information required to support applications

4.52 When applying to a scheme, victims/survivors may be asked to provide information to support their application. Participants were therefore asked about the types of written information and verbal evidence that should be submitted to support an application.

Question 3: Written information

4.53 Participants were provided with a list of seven types of written information and could either respond 'yes', 'no', or 'not sure' as to whether they thought they should be submitted to a scheme. On average, across all seven options, 170 participants answered this question and most participants (85 per cent) answered 'yes' to all options provided, four per cent answered 'no,' and 11 per cent were unsure.

Do you think the following types of written information, if available, should be submitted in support of an application to a scheme (this may be from the victim/survivor, or someone on their behalf including their next-of-kin)?							
Types of written information	Total response	Yes		No		Not Sure	
		N	%	N	%	N	%
Placement details	175	149	85%	6	3%	20	11%
Nature and severity of abuse experienced	171	147	86%	6	4%	18	11%
Information on impact of the abuse	171	145	85%	6	4%	20	12%
Police records of any allegations, convictions or related matters	170	145	85%	6	4%	19	11%
Previous or ongoing civil/criminal action	168	143	85%	5	3%	20	12%
Testimony from a third party	170	144	85%	6	4%	20	12%
Material prepared for another purpose	163	140	86%	6	4%	17	10%
Average Total	170	145	85%	6	4%	19	11%

4.54 Participants were also given the opportunity to describe other types of written information they thought should be submitted to support an application and any further comment regarding written information. A total of 179 comments were used in the analysis of this question.

Types of written information

4.55 In describing other possible types of written information that should be submitted to support an application, participants identified three types of information that would fall under 'material prepared for another purpose'. A few participants considered that information previously submitted to inquiries or other formal investigations should be submitted; for example, the Scottish Child Abuse Inquiry, Amethyst Police Inquiry, the National Child Abuse Inquiry, and the National Confidential Forum. It was suggested that evidence submitted to any previous inquiry should be enough to support an application. Three participants also suggested that education records should be submitted, including historic school records or teacher testimonies. Other participants focused on the relevance of information; any information relevant to each applicant should be provided to reflect individual circumstances. Two participants advised that they have supporting evidence of their abuse.

4.56 The majority of comments provided additional detail about the types of information listed within the questionnaire or where such information might be found. It was suggested that information about placements could be sought from local authority care records and social work records, as well as from care institutions. They could also be provided by victims/survivors themselves.

4.57 Participants noted that information relating to the nature and severity of abuse and its impact could be gained through personal statements from victims/survivors, and this could include interviews with victims/survivors, personal diaries, personal letters, and personal research of victims/survivors. It was also felt that children's files could confirm that abuse had been reported and that proof of severity of abuse could help with the assessment of compensation payment.

4.58 Medical and health agencies were also recognised by victims/survivors as potential sources of written information about the impact of the abuse, including information from GPs, clinicians, psychologists, psychiatrists and therapists that victims/survivors have consulted during their lives. Other sources suggested included records from institutions and rehabilitation centres, or medical records and assessments. A suggestion was that medical assessments could help distinguish the level of trauma experienced.

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4.61 Participants also suggested that police records, criminal convictions and criminal records of the perpetrators of abuse should be accessed, as could the sex offender register. Information about any action taken or payment received in relation to previous or ongoing civil litigation or criminal injuries compensation could also be submitted.

4.62 Participants also proposed people who might provide third party written testimony. These included friends and family, professionals (for example, probation officers, solicitors, counsellors or GPs), survivor organisations, peer support groups, and other support groups (for example, faith or charity support groups). Testimony from individuals who were in the same placement was also suggested because it will help build up corroborating evidence and strengthen cases. It was also suggested that information about membership of mutual aid or survivor groups could be used to support applications.

Benefits of providing written information

4.63 A few participants highlighted some benefits of providing written information in support of applications, in that it could provide insight into victims'/survivors' experiences by providing an overall picture of the abuse and its ongoing impact. It was also felt that the more information available, the more it will help determine the facts and establish an appropriate payment amount. More general benefits identified were the therapeutic value of providing written evidence (for example, victims/survivors having their voices heard and helping to bring them closure) and that it will help raise awareness and prevent abuse happening in the future.

Supports victims/survivors may need to provide written information

4.64 A few participants identified potential supports for victims/survivors in providing written information, which included allowing victims/survivors access to their written records in order to collate supporting written information. It was felt that emotional support for victims/survivors writing about their experiences would also be helpful. Sources of support suggested included counselling, advocacy and support from a victim/survivor support organisation.

Concerns about providing written information

4.65 Almost one in every four comments identified concerns around providing written information. Participants who commented on the impact of recalling and retelling their experiences expressed that this would be difficult, distressing and time-consuming. There were also concerns conveyed about victims/survivors being judged negatively, that some may be unable to provide written

information, and that written information is ineffective at personalising a victim's/survivor's experience.

4.66 The difficulty of accessing written records because of the destruction of records or obstruction on the part of agencies was also raised. Furthermore, it was highlighted that some victims/survivors may not have any supporting written information because of the passage of time, and providing written evidence was described as 'an impossible task'. The difficulty of remembering exact dates and times due to abuse occurring when victims/survivors were children was also raised. Participants also noted that written records may also be inadequate because victims/survivors did not tell anyone about their abuse at the time, they were ignored or it was not recorded. It was also highlighted that medical evidence might not exist due to some victims/survivors not receiving official medical treatment.

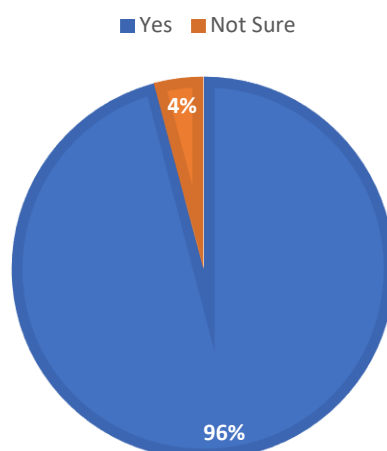
4.67 A few participants were concerned that the possession of supporting written information or availability of witnesses may become a criterion or requirement for eligibility, and would therefore act as a barrier to applying for the scheme. One participant, suggested for there to be 'any two' evidence types of information to support applications, as opposed to an extensive list being necessary. Others felt that victims/survivors should be believed on their own merit in the absence of supporting evidence, and that victims/survivors should not have to shoulder the burden of proof in trying to prove the abuse as this would be stressful for them. Two participants indicated that the onus of responsibility should be on the establishments where victims/survivors were placed because they were responsible for the records, and that if they fail to produce them it should be 'considered an admission of guilt'. Another participant stated that 'the abuse was well known', possibly implying that no further written information should be needed.

4.68 Concern about the possibility of fraudulent claims was expressed by three participants who felt that evidence in some form, and the vetting of applications, should be required to lower the risk of fraud. It was felt that, if evidence is not available, then the scheme needs to exercise caution so that it is robust and reliable, and that the potential for fraudulent claims is minimised.

Question 4: Verbal evidence

4.69 In the event that some victims/survivors may be unable to provide written information, participants were asked whether they should have the option of providing verbal evidence. Of the 171 participants who answered this question, almost all (96 per cent) supported the option of providing verbal evidence and four per cent were unsure.

If victims/survivors are unable to provide written information, should they have the option of providing verbal evidence?



4.70 Participants were asked to provide an explanation for their choice and also had the option of leaving further comments relating to verbal evidence. A total of 208 comments were used in the analysis of this question.

Types of verbal evidence

4.71 Three types of verbal evidence were mentioned in 20 per cent of comments - verbal testimonies being provided by victims/survivors themselves, any prior verbal testimonies submitted to inquiries, and testimonies from third parties.

4.72 Suggestions included that verbal testimony from victims/survivors who are able and willing could be provided in person or over the telephone, and that they might also be given in private. A few participants stated their own willingness to provide a verbal testimony and others commented on the supports for victims/survivors in giving verbal testimony, which included a supportive and personal approach, being mindful of who was present, giving victims/survivors a fair hearing and having access to support from a trusted person. Victims/survivors should feel safe and not be cross-examined; a situation similar to the National Confidential Forum was suggested.

4.73 A few participants suggested that a pre-recorded verbal statement could be used, or a transcription of a verbal testimony given previously for another purpose, such as inquiries or investigations. In the case of deceased victims/survivors, it was also suggested that a previously recorded statement could be submitted.

4.74 Various possible sources of third party testimony were also identified by participants, including fellow former residents and victims/survivors, friends and family, professionals such as GPs, counsellors or work colleagues of victims/survivors, and anyone with relevant knowledge of the victims'/survivors' history. It was highlighted that third party testimonies would be reliant on the

willingness and ability of witnesses to become involved and that many have died already due to the amount of time that has passed.

Verbal evidence provision

4.75 Participants who considered that it was only right for victims/survivors to provide verbal evidence explained that they are the only true witnesses to the abuse suffered and the impact experienced. Among the benefits of providing verbal evidence mentioned were that it will allow victims'/survivors' voices to be heard, to give their side of the story, and to provide a personal account of their experience. It was also felt that verbal evidence can help facilitate full disclosure and jolt memories.

4.76 However, the importance of verbal evidence being optional and not essential was stressed by participants. Although some victims/survivors may find it easier to speak, it was recognised that it could be too difficult for others and that some may just prefer to provide written information.

4.77 It was also suggested that verbal and written evidence should be treated equally, that victims/survivors should have the option of providing both verbal and written evidence, and that the option to provide verbal evidence should still be given even where there is supporting written evidence.

4.78 Five participants considered that verbal evidence should be conditional. However, different reasons were given for this:

- Verbal evidence should be permitted where there is no available written evidence.
- Verbal evidence should only supplement a written statement.
- Verbal evidence should only be permitted where there is confirmation that the applicant had lived in a care setting.
- Verbal evidence should only be permitted if the abuse had been previously reported and investigated by the police.
- Verbal evidence should only be permitted when it is supported by other evidence, so as not to just rely on an individual's word.

Victims/survivors may prefer verbal evidence over written information

4.79 In less than half of comments (45 per cent) provided by participants, there was suggestion that giving verbal evidence instead of written information might be preferred by some victims/survivors, and that verbal evidence may actually be the only option available for some victims/survivors and the next-of-kin of a deceased victim/survivor. Participants felt that verbal evidence could be more accessible than written information, as some victims/survivors communicate better verbally and may be more comfortable talking through their experience. Some victims/survivors might find it too difficult to write about their experience, or might have difficulty providing written information because of physical or mental ill health. It was also highlighted that victims/survivors may not have the mental capacity to provide written information, and that other medical

conditions, such as a deteriorating eye condition, could mean that providing written evidence would be difficult. The literacy of victims/survivors was also highlighted as an issue in providing written evidence, particularly as this may be associated, for some, with their time in care.

4.80 It was also expressed that verbal evidence can be more reliable than written information, and that a written statement comes a poor second to victims/survivors verbally conveying their experience.

4.81 Concerns were also raised by participants about the lack of written evidence (most of these issues have been dealt with in the previous section). Additionally, one participant described the 'trouble' they had in obtaining information from police, social work and medical agencies, because much had disappeared or had been omitted from records. Others stressed that just because the abuse and its impact has not been recorded, it does not mean it did not happen, and that the emotional scars still exist. One participant expressed mistrust over the reliability of the sources of written evidence from institutions and that the strength of any written evidence should be based on its integrity.

Benefits of verbal evidence

4.82 The benefits of providing verbal evidence mentioned by participants were that it can enhance testimonies, allows victims'/survivors' voices to be heard and to feel believed, and will also mean that victims/survivors can convey feelings about their experience and the impact of their abuse. Additional benefits of verbal evidence mentioned were that it will allow others see the impact of the abuse with their own eyes, help raise awareness, help identify what lessons need to be learned, help prevent abuse happening in the future, and help establish a consistent body of corroborating evidence.

4.83 A few participants also considered that providing verbal evidence can be a therapeutic process as it gives victims/survivors the opportunity to share their experience, helps with the healing process, and can provide validation, relief and closure.

Concerns relating to providing verbal evidence

4.84 Concerns were raised by participants about the impact of providing verbal evidence on victims/survivors, and that some may never have spoken about their experience before. There was concern that providing verbal testimony could be distressing and traumatic. The fear of not being believed was also expressed. As was the case with written evidence, participants highlighted the issue of the burden of proof being placed on victims/survivors. The prevention of fraudulent claims was also a concern, and the need for adequate safeguards being put in place was highlighted; one suggestion was for the procedures of the Scottish Child Abuse Inquiry to be followed, where all evidence submitted must be signed and declared as truthful by victims/survivors.

Question 5: Choice of support for victims/survivors making an application

4.85 Participants were asked what types of support could be useful for applicants to a scheme and between 165 and 173 participants responded to the options in this question. Participants who answered this question were in favour of applicants having access to the range of support.

Would it be useful for applicants to a scheme to have access to.....?							
Type of support	Total Responses	Yes		No		Not sure	
		N	%	N	%	N	%
Practical Support	173	164	95%	1	1%	8	5%
Emotional Support	173	154	89%	5	3%	14	8%
Financial Support	172	146	85%	2	1%	24	14%
Legal Support	172	147	85%	3	2%	22	13%
Advocacy	173	146	84%	2	1%	25	14%
Other kinds of information	165	113	68%	3	2%	49	30%

4.86 Participants who answered 'yes' were asked what they would like this support to include. A total of 703 comments were used within the analysis of this question.

4.87 In some cases, participants were referring to more general support for the consequences of abuse (for example, counselling, psychiatry, psychotherapy, tracing family members, education and employment) and not just support in relation to the financial redress scheme. Those additional supports are out with the remit of the consultation and have therefore been excluded from the analysis of this question.

General features of support

4.88 Participants took the opportunity to express what the main features of support would look like for them and tended to focus on support being victim/survivor-centred, describing what victims/survivors might look for from services, or what they might look for from the individuals providing support.

Victim/survivor-centred support provision

4.89 Participants stressed that support provision should be victim/survivor-centred, be based on the individual needs of victims/survivors, and that different supports may be needed depending on personal circumstances, such as age and vulnerability. In addition, it was felt that each individual should be able to choose

the support they need, should be fully informed of their rights, have access to independent support and advice if needed, and not be 'coerced' into accepting support they do not want or trust.

What victims/survivors are looking for from services and individuals delivering support

4.90 Participants highlighted that services delivering support would need to listen to victims/survivors and recognise their individual needs. It was felt that support should be immediate and continue as long as needed, that multiple supports may be needed in different geographical areas, and that support should be helpful, welcoming, comforting and trustworthy. It was highlighted that victims/survivors should be given a choice of supports and may also need to be advised where to access supports. Similarly, the individuals delivering support must build trust, develop relationships and should work with victims/survivors from start to finish. Victims/survivors should have choice, for example, in terms of gender of the individual providing support. Participants noted that individuals providing support should be 'experienced and empathetic' and will understand what victims/survivors have been through, listen to their point of view, believe in them and be contactable when needed.

Types of support

4.91 The redress process was compared to opening 'a can of worms'; one participant advised that their experience of seeking redress has been the most difficult thing they have done in their life, and that their advice for any victim/survivor seeking redress is to ensure they have multiple supports in place, such as family, GP, psychologist and a counselling service.

Practical support

4.92 Participants suggested practical support would be needed to help applicants understand what redress is and means, to provide a step-by-step guide through the process and any 'bureaucracy', and to provide advice on how applicants should apply to the scheme and on how to deal with any issues they may encounter. This could be face-to-face support or via telephone. Support with the application form was also mentioned; applicants may need help to access, understand and complete any application form, particularly if they have literacy issues or medical conditions. One participant felt that support with the application form would ensure that it is submitted on time.

4.93 Given the complexity around accessing records, participants considered that support may be needed to help some applicants compile written information, such as accessing library archives, research, and sourcing and securing records (for example, care, social work and medical records). It was suggested that a support worker could help support applicants when they are providing verbal evidence.

4.94 Participants also suggested that it would be important to signpost victims/survivors to the various supports relevant for their individual needs, for instance, to local survivor groups, and charities, other appropriate professional services (such as legal advice, psychology, psychotherapy and psychiatry), and any other services they can go to for support that they may be unaware of. It was thought that such a signposting service could be provided through a helpline, support workers or advocates.

Emotional support

4.95 Participants suggested a range of emotional support. Support prior to the application would be needed to ensure that victims/survivors had in-depth explanation of the scheme. Participants suggested that emotional support pre-redress and post-redress could also be needed to deal with the potential emotional impact of seeking redress, particularly in relation to the impact of the application process. Participants noted that this could be distressing and emotionally draining because it would involve traumatic memories and could induce flashbacks and anxiety. Emotional support could help victims/survivors cope with anxieties and feelings about applying for compensation linked to their abuse and its impact, and help them understand their experience and the wider context of their abuse. It was also felt that it would be helpful for victims/survivors to have emotional support when providing verbal evidence, when having to confront the service provider and the perpetrator of their abuse, and when travelling to and attending meetings. Peer group support would allow victims/survivors the opportunity to talk to others who are 'in the same boat', who will understand and believe them, help them validate their memories, deal with any re-traumatisation that their application invokes and help them not to feel so alone. It was felt that this could also provide a platform for those who have been through the process to discuss their experience with those who are applying, particularly those who have a lack of trust of authorities.

4.96 Participants also highlighted the importance of safeguarding applicants by ensuring they have a safe space to complete the application form and dealing with their anxieties relating to 'the written task'. They need to be supported to relive their memories safely, and build their confidence to seek redress, report their abuse to police if they want to, and deal with any emotional impact of the redress process.

4.97 Other emotional supports suggested were support from family and friends, befriending, moral support, spiritual support and victim support.

Financial support

4.98 Participants stressed that a lack of income should not prevent victims/survivors from applying for a financial compensation/redress scheme, and that being unable to progress with an application due to lack of finances is wrong. Different views were expressed about how financial support might be offered and whether it should be means-tested. Participants suggested a range of costs that could be covered: travel expenses, internet costs for online access

to the application, all costs associated with accessing records (for example, travel expenses, accommodation, postage, photocopying and telephone), and legal costs. Other costs suggested included costs associated with attending meetings or appointments associated with a redress scheme; child-care costs, loss of earnings, and clothing costs for 'decent attire' to attend meetings. The importance of financial advice and guidance upon the payment of compensation to support victims/survivors in financial planning was also highlighted.

4.99 Participants considered that financial support should fund services which have been detailed in other sections, including counselling, alternative therapies, signposting support, and existing services to undertake support for a financial redress scheme.

Legal support

4.100 Participants suggested a range of legal support. Legal representation and legal advocacy would provide victims/survivors with impartial and independent support and advice in applying to the scheme, including support with legal documentation and legal jargon.

4.101 Legal support was viewed as offering support for victims/survivors who find it difficult to speak for themselves, particularly because of age or disability. Participants highlighted that victims/survivors may need legal advice about liability, their legal redress options, and on all aspects of the application process, including legal advice on any claim that victims/survivors would be entitled to make. Legal support would ensure that they have equal access to the scheme and are kept 'on the right track and focused'.

4.102 Three participants expressed that legal support could facilitate the retrieval of records associated with the abuse they experienced while in care and its impact. This included support to look into the history of victims'/survivors' experiences, to access and check their records, and to access police records.

4.103 Participants felt that legal support may also be needed for applicants to understand their options relating to civil and/or criminal court action, as opposed to a financial redress scheme. It was expressed that unless compensation is an acceptable amount, victims/survivors may need support to seek redress through civil court.

4.104 Funding of legal support was also highlighted, and that free legal support and legal aid should be available to all applicants to ensure there is no financial penalty for victims/survivors applying to a scheme. One participant highlighted that some victims/survivors may be unable to afford legal support and suggested that if a compensation scheme is transparent, with no barriers to access or compensation, then the option for legal advice should only be considered based on cost if it impacts on the level of individual payment awards.

Advocacy

4.105 Advocacy was also considered important; among the features of advocacy support described by participants were that it should be timeous, and that advocates should be good at what they do and understand what applying to the scheme means for victims/survivors. This would be particularly important for those who are unable to self-advocate, such as vulnerable adults, those with literacy or communication difficulties, and those with a mental disability or illness.

4.106 Participants also considered that advocacy should provide support with the application process. This included advice and guidance to help applicants understand the language used by professionals, understand the process, help keep track of their progress in the process, and provide them with support and advice. Advocacy could also include assistance in completing the application form and associated paperwork, such as collating supporting evidence (for example, care records).

4.107 Participants considered that an advocate would fully consult with the victim/survivor in order to represent them effectively, help represent their views in meetings, be sensitive about the issues and impact of the experiences of victims/survivors, and provide them with the opportunity to seek redress.

4.108 It was suggested that advocacy should be provided by independent and impartial individuals and organisations to enable applicants to fully exercise their rights. Participants felt that advocacy would also help victims/survivors clarify their thoughts, ensure they are allowed to express their views, and that their voices are heard. Advocacy could also help to argue, defend and stand up for victims'/survivors' rights.

4.109 Advocacy was also identified as being a possible source of emotional and/or spiritual support at every step in the process, to help victims/survivors come to terms with their abuse, fill in the gaps in their knowledge, and help them to realise their experience of abuse was not their fault. One participant highlighted that advocacy could also provide emotional support for victims/survivors who are able and willing to represent themselves.

Existing sources of supports

4.110 Participants were not asked but took the opportunity to comment on existing sources of support, including assistance received from support organisations and other sources, such as GPs, therapists, social workers and support workers. A few participants indicated they would either like to, or continue to, receive support from existing support organisations; they recommended that practical and/or emotional support be provided from a range of existing organisations.

Sources of advocacy for victims/survivors

4.111 Participants also indicated who may be their preferred source of advocacy, and suggestions included that advocacy could be provided by a support worker, an existing counsellor or self-run victim/survivor groups. Organisations specifically mentioned included an existing advocacy service for men who experienced sexual abuse as children. One participant explained that advocacy had helped them avoid falling behind with the requirements of their case, helped them through a lengthy police investigation and to provide testimony at an inquiry.

Concerns relating to seeking redress

4.112 Participants raised concerns that the impact of the application process could be distressing. There was also concern that the current financial situation of victims/survivors - for example, those who are in receipt of pensions or benefits - could present barriers for them to apply for redress. There was also concern expressed about the costs of legal and advocacy support, which would take money away from victims/survivors by absorbing funds for redress.

Question 6: Victim/survivor representation

4.113 Participants were asked how they thought victims/survivors could be best represented in the development and administration of a scheme. A total of 160 comments were used within the analysis of this question.

4.114 It is important to note that 'victim/survivor representation' had different meaning among participants who answered this question. For some, representation meant victims/survivors having direct involvement and representing themselves; for others, it was about victims/survivors being represented by a third party.

Direct involvement of victims/survivors in scheme development and administration

4.115 The majority of comments received related to the direct involvement of victims/survivors in scheme development and administration. There was general support for direct involvement of victims/survivors. It was considered that it is right for victims/survivors to be involved in scheme development and administration, that such input would be helpful, and that some victims/survivors would relish the opportunity to be involved. Although there was uncertainty around what the best way would be for victims/survivors to be involved, it was felt that they should be given the opportunity and option for involvement.

4.116 It was felt that victims/survivors should be 'involved fully' and 'integral' at every stage, so that their voices are heard at all levels of the decision-making process. Participants noted that representation should not just be tokenism and any opportunity for victims/survivors being represented in the development and administration of a scheme should be genuine. Victims/survivors should be

listened to, fully consulted, have their participation supported at all stages and have their contribution recognised. Participants highlighted that they should be treated carefully and with respect. It was also suggested that a video call facility should be available to victims/survivors so they do not have to face others directly.

4.117 There was a range of suggestions about the type of direct involvement that victims/survivors could have. Participants considered that victims/survivors could have direct involvement through membership of the board or panel that would be developing and administering the scheme. It was envisaged that membership could include a mix of victims/survivors and professionals.

4.118 One in every three participants who mentioned a type of direct involvement suggested that victims/survivors could have direct involvement through membership of an advisory or steering group. Victim/survivor representation on an advisory group should be significant, fair and include all types of victims/survivors.

4.119 For participants who considered that victims/survivors could have full involvement through membership of a victim/survivor support group, it was felt that the support group could allow victims/survivors to share their experiences to help others, and that another support group could be set up post redress for victims/survivors who receive compensation.

4.120 It was suggested by participants that a well-considered consultation structure would be required to help victims/survivors become involved in the development and administration of the scheme. It was felt that victims/survivors would be well-placed to provide information on how victims/survivors could engage with the process and their journey through it. Other suggestions were that victims/survivors could be involved in any redress meetings or day-time discussions during the development process, and that victims/survivors could have anonymous involvement through an online chat board to allow a wider representation.

4.121 Participants felt that keeping victims/survivors informed through regular updates would also help facilitate their involvement and help establish trust; a regular leaflet written by victims/survivors and access to scheme reports were suggested.

Benefits of utilising the unique insight of victims/survivors

4.122 Participants highlighted the unique insights of victims/survivors and the benefits they could bring to help inform the development of the scheme, provide peer support to other victims/survivors through the application process, and help with the administration of the scheme.

4.123 In relation to the development and administration of a scheme, participants suggested that victims/survivors should help design and agree a tariff that would be fair to all, and that they are best placed to understand the impact of abuse, could bring personal experience and insight, and could help

articulate what were 'normal' experiences for victims/survivors. Additionally, it was felt that victims/survivors would also add knowledge to decisions, help to keep the process transparent, ensure fairness in compensation processes and outcomes, and provide a positive contribution to the outcome of the scheme. It was also noted that their involvement would also help alleviate issues of trust in the process, provide a means to consult with victims/survivors and help the process be better managed on a victim/survivor level.

4.124 Participants also considered that the unique insight of victims/survivors would allow them to provide peer support and explain the process to other victims/survivors, provide reassurance, understanding of what victims/survivors have experienced, help them not to feel so alone, and reassure applicants that they would be believed. It was also felt that victim/survivor representation would also ensure the process is easier, fair, impartial and less stressful for victims/survivors.

Victims/survivors should have third party representation

4.125 Participants considered that third party representation was important because not all victims/survivors can attend themselves, and that a fair representation of victims/survivors is required. Third party representation would ensure that victims/survivors have someone to support them, believe in them, fight their corner, and speak on their behalf. Other suggestions included that victims/survivors should have a choice as to how they wish to be represented through communications, one-to-one consultations, or group sessions.

4.126 Another suggestion was that victims/survivors should be represented as a whole rather than individually.

4.127 Victim/survivor support groups or organisations were noted as perhaps being able to represent victims/survivors in the development and administration of a scheme, and in the decision-making process. It was expressed that victim/survivor groups should be trustees or administrators as this would ensure transparency and inclusion at every level of the process, including agreeing terms, assessing claims, and overseeing the support given. It was also suggested that victim/survivor support organisations know what they are talking about, and they are best placed to convey the impact of abuse.

4.128 The types of representation suggested to which victims/survivors could have access were advocacy, financial representation, legal representation, and representation from victim/survivor support groups or organisations. These forms of support have been covered in detail in Question 5 (Choice of support for victims/survivors making an application).

Further representation of victims/survivors is not required

4.129 There were a few comments that indicated that there was no need for any further representation of victims/survivors. One view was that victims/survivors were represented well enough already, another was that this consultation was sufficient and should now be fed back with a clear strategy to progress the

scheme, and the final view was that there should be no administration and that financial compensation should just be paid out to victims/survivors.

Concerns relating to victim/survivor representation/involvement

4.130 A few participants raised concerns about victim/survivor involvement in the development and administration of a scheme. These included suggestions that victims/survivors should not be involved in the decision-making process, that asking this question within this consultation is unfair, and that the Government needs to be more 'proactive as they are the final decision makers'. It was also expressed that victims/survivors should not be involved in any decision-making regarding compensation amounts, because that burden should not fall on victims/survivors. Concern over the potential negative emotional impact that involvement could have on victims/survivors was also raised.

4.131 Another area of victim/survivor involvement that caused concern for participants was victims/survivors having access to confidential information from applications; it was felt this could undermine confidence in the scheme.

4.132 There was concern expressed that all victims/survivors should have the opportunity to be involved and not just those from particular victim/survivor groups, from particular homes, or from particular victim/survivor support organisations. It was felt by participants that those groups do not necessarily represent the views of all victims/survivors and it is therefore important that representation is wide ranging.

4.133 There was uncertainty noted about how victim/survivor representation would work, and that representation may be beneficial for some victims/survivors but challenging to others.

4.134 There was also concern expressed over the cost of representation, as it was felt that fees are usually inflated and it would be wrong for any fee to be deducted from the compensation payment. Another cost concern was that victims/survivors should not be treated as a commodity; the scheme should be simple with minimal administration, to ensure professionals involved are not paid more than survivors.

Question 7: Knowledge and understanding areas

4.135 Participants were asked about knowledge and understanding that could be applied when assessing applications. Approximately 86 per cent of participants who answered this question supported the inclusion of each of seven knowledge and understanding areas to be applied in decision-making: advocacy, finances/financial compensation assessment; health; human rights law; law; social care; and trauma.

What areas of knowledge and understanding could be applied when assessing applications?							
Knowledge and understanding areas	Total responses	Yes		No		Not sure	
		n	%	n	%	n	%
Advocacy	163	140	86%	2	1%	21	13%
Finances/Financial Compensation Assessment	160	137	86%	2	1%	21	13%
Health	160	137	86%	2	1%	21	13%
Human Rights law	159	136	86%	2	1%	21	13%
Law	157	134	85%	2	1%	21	13%
Social Care	161	138	86%	2	1%	21	13%
Trauma	159	136	86%	2	1%	21	13%

4.137 Participants were also given the opportunity to describe any other areas of knowledge and understanding that could be applied in decision-making panels when assessing applications. A total of 95 comments were used within this analysis.

4.138 One participant commented that they thought the areas outlined above should cover any application assessment.

General knowledge and understanding areas

4.139 Participants suggested other areas of knowledge that would be useful for decision-making panels; these included education, health (for example, psychiatry and mental health assessments), finance (including knowledge of funding for legal support and of the benefits system to ensure compensation payment would not negatively impact those in receipt of benefits), and accountability. Areas related to children were also suggested, for example, knowledge and understanding about children, child development and how children view the world. One participant suggested that experiences of redress from other countries could be sought. Another participant stressed that any areas of knowledge should be addressed from an independent and impartial standpoint.

Knowledge and understanding of victims/survivors and their experiences

4.140 Participants also highlighted the importance of knowledge and understanding of victim/survivor experiences in care, and suggested that those with lived experience of the abuse and/or its impact would be an important source of knowledge, and could also be a source of emotional, practical and advocacy support for other victims/survivors. Knowledge areas suggested included: knowledge of the care system itself, including religious homes and the conditions children experienced within them; the extent of the abuse and trauma that victims/survivors experienced; and the long-term impact of abuse and

trauma in terms of the financial, social and health consequences. Sensitivity to and understanding of the mistrust that some victims/survivors have of the Scottish Government was another knowledge area identified.

Decision-making panel

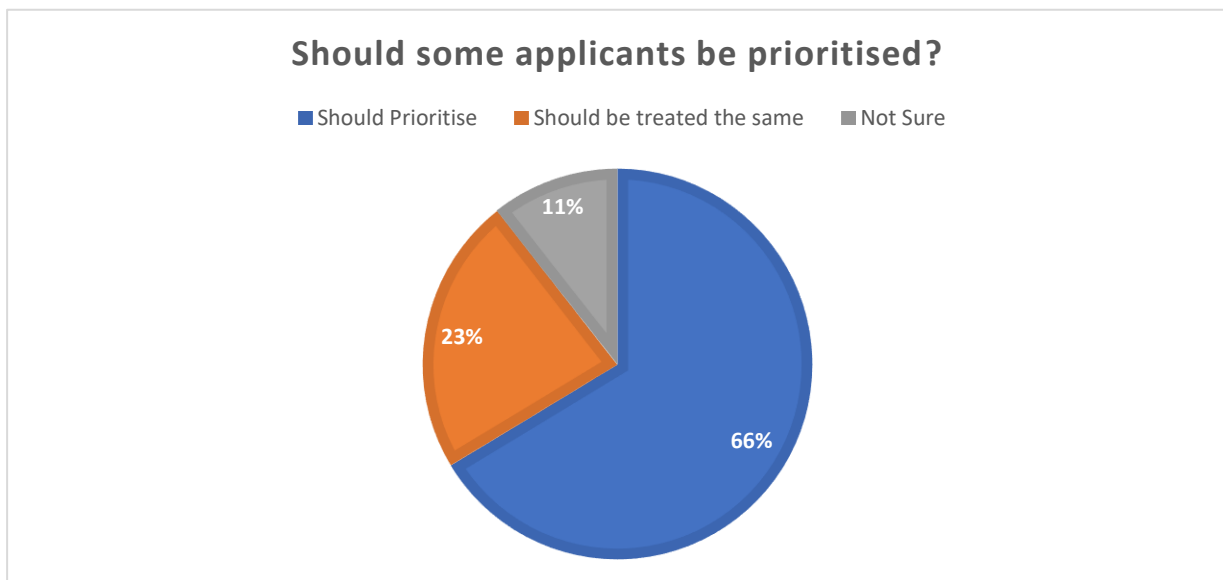
4.141 Comments were also provided in relation to knowledge and understanding areas that members of the decision-making panel should have.

4.142 There was hope from participants that the scheme administrators would consist of 'a group of people with fresh ideas' who will be responsible for decision-making and deciding on payment amounts. Participants suggested who should be on the decision-making panel and included victims/survivors themselves and representatives from support groups or support organisations. It was felt that victims/survivors on the panel would be able to empathise and ensure applicants are fully represented and understood, while survivor groups would provide 'the experience and the conscience'. One view was that the development and administration of the scheme should be completely independent of Government; another view was that it should not be independent, that the Scottish Government should retain accountability for the scheme. The possibility of having a panel with a judge and three members of the public was also among suggestions, as were having individuals with a professional background, for example, a psychiatrist with experience in child abuse and individuals with an educational background.

4.143 It was felt by participants that professionals on the panel should have knowledge of trauma and of working with or supporting victims/survivors, and all panel members should be sensitive to, and appreciative of, the impact that the application process may have on victims/survivors. It was noted that panel members should also be mindful of the impact of individual victims/survivors retelling their experience - sometimes multiple times - on victims/survivors, as it could trigger memories and flashbacks. Understanding and accommodating the communication and understanding needs of particular groups of applicants, for example, those with a learning disability or those with poor mental health, was also highlighted. Participants also suggested areas for training and education that should be undertaken by those assessing applications, such as training on sexual abuse.

Question 8: Priority circumstances

4.144 Participants were asked whether some applications to a financial compensation/redress scheme should be prioritised. Of the 169 participants who answered this question, the majority (69 per cent) felt that some applications should be prioritised, while 24 per cent felt all applications should be treated the same and the remaining seven per cent were unsure.



4.145 All four participants who completed the questionnaire on behalf of a deceased victim/survivor, and both participants who completed it on behalf of a victim/survivor support organisation, supported priority circumstances.

4.146 Participants who supported priority circumstances were then asked what circumstances applications should be prioritised under and to explain why they felt that way. All participants were asked to give any further comments on priority circumstances. A total of 343 comments were used within the analysis of this question.

Particular priority circumstances

4.147 In discussing particular priority circumstances, participants identified four main circumstances:

- Circumstances relating to victim/survivor age and/or health
- Individual circumstances of victims/survivors
- Experience and/or impact of abuse on victims/survivors
- Circumstances where there has already been a successful court conviction

Circumstances relating to victim/survivor age and/or health

4.148 Priority circumstances based on victim/survivor age and/or health were mentioned most, and were in the form of either general suggestions about priority for victims/survivors who are life limited, or were more specific in relation to the age and/or health of victims/survivors.

4.149 Age-related priority circumstances suggested by participants included anyone who was elderly or of an advanced age, or from a specific age bracket, for example, over 60, over 70, and pre-1964 victims/survivors²⁶. It was highlighted that some victims/survivors have died already, and more victims/survivors may die before the redress process is finalised, hence the need to prioritise their applications. Health-related priority circumstances mentioned included any victim/survivor suffering poor health generally or, more specifically, those with severe ill-health, chronic ill-health, life-changing illness, critical illness, or terminal illness. Prioritising applications in these circumstances was felt to go some way to help victims/survivors achieve justice in their lifetime. Among the insights provided by participants about the positive impact that priority applications could have for those victims/survivors were that it was felt that priority payment would ease victims'/survivors' financial worries about bills and funeral expenses, and help them live more comfortably in the time they have left. There was also specific support for prioritising pre-1964 applications; their journey has been much longer and lonelier to get to this point, they have lived longer with the effects of abuse, and they deserve justice.

Individual circumstances of victims/survivors

4.150 Other priority circumstances suggested by participants were based on the individual circumstances of victims/survivors. Justification for this was noted in views that every case is different, all are equally important, and all need to be respected. Participants felt that among individual circumstances to be considered for priority are the immediate needs of victims/survivors, as long as they are genuine, for example, those who are struggling with housing or homelessness, those who are in poverty or experiencing hardship through unemployment or inadequate pensions.

4.151 Participants also suggested priority for those with a disability, for those who have never received a payment before, and for those where there is a greater need for intervention and/or support (for example, care, counselling, drug and/or alcohol support, or psychological and mental health support). It was noted that individual needs of victims/survivors may well be linked to the long-term consequences of abuse or trauma.

4.152 Other suggestions addressed family-related areas, including that priority should be granted to applications from multiple members of the same family, next-of-kin (where the victim/survivor has deceased) or from victims/survivors who are young parents or have a young family. Priority was also suggested for victims/survivors whose spouse/partner has an illness, disability or mental health issue(s), or for victims/survivors who may not have any family left to support them.

²⁶ SHRC (2017) Effective Remedies for pre-1964 survivors. Retrieved from <http://www.scottishhumanrights.com/justice/historic-child-abuse/>

4.153 It was also suggested that a thorough assessment would be needed to decide the level of compensation.

Abuse-related circumstances

4.154 A few participants suggested that priority circumstances should include the experience and impact of abuse on victims/survivors. This could include the severity of abuse or the nature of the abuse, for example, sexual abuse. Other factors mentioned by participants included the age of the victim/survivor when the abuse occurred, for example, young children were described as being treated cruelly in response to bedwetting, the time of occurrence of abuse, the length of time victims/survivors were in care, and the length of time they were exposed to abuse. It was felt by a few that certain experiences of abuse are more traumatic than others, for example, sexual abuse. It was also felt that the impact of abuse can be more severe and profound for particular victims/survivors.

Successful court conviction

4.155 Another priority circumstance suggested by participants was for victims/survivors where there had been a successful prosecution against the perpetrator of their abuse, i.e., a court had already determined that the abuse took place. It was felt that in such circumstances there did not need to be any further delay.

General support and meaning of priority circumstances

4.156 There were also general expressions of support and statements of what priority circumstances could mean for victims/survivors. Expressions of general support included that every victim/survivor 'has the same basic right based on the S.H.R.C'²⁷ and that, although discrimination should be avoided, some applications should be urgently prioritised for ethical and moral reasons. Participants also felt that priority circumstances would need further discussion with victims/survivors. Prioritising applications would be right, would show respect and humanity to victims/survivors, and would just be 'common sense'

Victim/survivor applications should be treated the same

4.157 As noted, 24 per cent of participants felt that all applications should be treated the same. The majority of comments within this theme were from the participants expressing this view, and among their explanations to justify this perspective were that everyone should be treated the same in all aspects of life, that all victims/survivors were a priority as they had all experienced trauma, and all should be treated fairly and equally. It was also felt that applications should be dealt with as a single process and this must be fair, honest and open, and that victims/survivors should be given the best treatment possible. It was also

²⁷ SHRC (2010). A human rights framework for the design and implementation of the proposed "Acknowledgement and Accountability Forum" and other remedies for historic child abuse in Scotland. Retrieved from <http://www.scottishhumanrights.com/justice/historic-child-abuse/>.

felt that it could be difficult to distinguish who to prioritise, and unfair to say that one victim/survivor had suffered more than another.

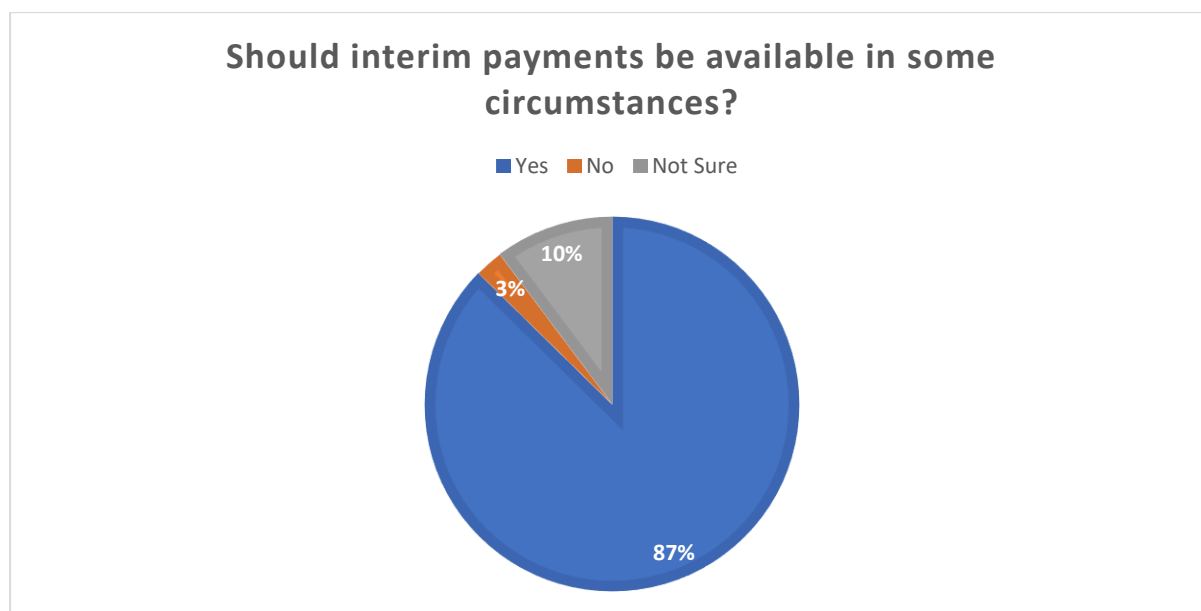
Concerns relating to priority circumstances

4.158 A few concerns were raised by participants about prioritising applications for particular victims/survivors. One of these concerned the legality of prioritising particular groups within the victim/survivor population, with a suggestion of further input being required from the Scottish Human Rights Commission. There were also concerns about the potential for fraud in the process of priority applications, and measures would need to be taken to prevent this.

4.159 Overall, 69 per cent of participants are in support of applications being prioritised and while most support expressed was in relation to the age and health of victims/survivors, other suggestions included the experience and/or impact of abuse, the individual needs of victims/survivors (for example, housing, family or financial circumstances), and prior successful conviction of a perpetrator of abuse.

Question 9: Interim payments

4.160 Participants were asked whether interim payments should be made available in some circumstances and 166 participants answered this question. Most participants (87 per cent) who answered this question felt an interim payment should be made in some circumstances, two per cent felt that they should not and 10 per cent were unsure.



4.161 Participants who supported interim payments were then asked under what circumstances payments should be made. All participants were then given the opportunity to explain their reasons for their choice and to provide further comments on interim payments. A total of 300 comments were used within the analysis of this question.

Interim payment circumstances

4.162 Participants identified seven main circumstances for interim payments:

- All victims/survivors should receive interim payments
- Circumstances relating to victim/survivor age and/or health
- Individual circumstances of victims/survivors
- Abuse-related circumstances (for example, experience and/or impact of abuse)
- Loss of opportunity
- Financial-related circumstances
- Prior successful court case

All victims/survivors should receive interim payments

4.163 There were a few participants who suggested that all applicants should receive an interim payment regardless of their circumstances, albeit for slightly different reasons – that it would ensure that discrimination between applicants was avoided, all victims/survivors have been waiting for a long time, and all have been asking for long enough.

Circumstances relating to victim/survivor age and/or health

4.164 The majority of comments addressed the issue of age or health, and were either general suggestions about interim payments for victims/survivors who are life limited, or were more specific in relation to the age or health of victims/survivors, or factors that could reduce life expectancy, such as homelessness.

4.165 Age-related circumstances suggested by participants included anyone who was elderly, of an advanced age, or from a specific age bracket, for example, over 60, over 70, and pre-1964 victims/survivors²⁸. Health-related circumstances suggested were where victims/survivors are suffering ill-health, sickness, poor mental health (including repeated suicide attempts), rapidly deteriorating health, terminal illness, or other medical issues that shorten their lifespan. It was highlighted that the redress process must be quick for it to be meaningful to victims/survivors who are life limited.

Individual circumstances of victims/survivors

4.166 Also among suggestions were that interim payments should be based on the individual circumstances of victims/survivors and be issued to any victim/survivor who is unable to understand the process due to a mental, physical or emotional incapacity, to victims/survivors who are experiencing personal problems, and to victims/survivors who are in need, for example, emergency needs such as homelessness or financial difficulties. It was also

²⁸ In general, individuals who were abused before 26 September 1964 are unable to raise civil proceedings. This issue relates to law of prescription and the European Convention on Human Rights (ECHR).

suggested that victims/survivors with disabilities should receive interim payments.

Abuse-related circumstances

4.167 A few participants suggested that interim payment should be issued on the basis of the experience and impact of abuse on victims/survivors, which could include the severity or duration of the abuse, and also depend on the long-term consequences of abuse in terms of lost opportunities and poor physical and mental health.

Loss of opportunity

4.168 Participants suggested loss of opportunity as being a reasonable justification for an interim payment, to support victims/survivors returning to employment or accessing lost opportunities.

Financial circumstances

4.169 Two types of financial circumstances were suggested by participants for interim payment. The first related to victims/survivors experiencing financial difficulties, poverty or hardship. The second related to the length of the application process and that an interim payment would be warranted for those experiencing an extended application process, for example, if their case requires more attention or time to reach a decision.

Prior successful court case

4.170 It was also suggested that interim payments should be issued to victims/survivors where there had been a successful prosecution against the perpetrator of their abuse, that is, a court had already determined that abuse had taken place.

General support and meaning of interim payments

4.171 General statements made in support of interim payments being issued were that they would benefit victims/survivors, help change their lives, and help them access immediate support. It was also felt that, for some victims/survivors, interim payments would be fair, just, moral, and right. It was also conveyed that it would be recognition, acknowledgement and validation for victims/survivors that their experience of abuse and its impact are being believed, would help victims/survivors feel justified in their pursuit of redress, and would go towards helping some victims/survivors reconcile and enjoy life with their children. Interim payment was also seen as part of the healing process that will ensure that all victims/survivors receive some form of justice, while helping bring some victims/survivors closure.

Processing of interim payments

4.172 Comments were also made about how interim payments should be processed and tended to relate to either the timescale of interim payments, the assessment of interim payments, the issuing of interim payments or the level of payment.

4.173 Concern was expressed that the needs of some victims/survivors are immediate and interim payments would address this. Comments also suggested that there needed to be a balance between interim payments being granted without checks and the process being over-complicated. It was also suggested that interim payments might be issued weekly, or that there might be an initial payment and then subsequent regular payments.

Level of interim payment

4.174 It was felt that interim payment should be adequate enough to make a difference to victims/survivors while they are awaiting the full compensation payment. Participants were not asked about interim payment amounts, however, one participant suggested a starting point of £20,000 as a 'show of faith for victims/survivors that the redress process is not a just a paper exercise'. Another suggestion was that the interim payment should be a hardship payment to meet the basic living needs of victims/survivors. One participant stated that if an interim payment had to be issued then it should only be to cover application related costs.

Interim payments should not be made available

4.175 Two of the participants who did not support the issuing of interim payments provided supporting reasons to explain their choice, and considered that all victims/survivors should receive compensation at the same time, and should be treated equally regardless of their circumstances.

Question 10: Individual experience payments

4.176 Individual experience payments involve using different factors to decide the level of payment made. These can include the length of time in care, the type of abuse (for example, sexual, physical, emotional and neglect), the frequency of abuse, the impact of abuse, and loss of opportunity caused by the effects of abuse. Each factor is assessed within the context of individual circumstances and is worked out using a matrix or tariff table. This approach allows the applicant to see what payment they are likely to receive. This is a more in-depth approach that measures different types of abuse and impact.

Factors to be included in a matrix/tariff table

4.177 Participants were presented with a list of factors typically included in individual experience payment schemes and asked whether or not they thought they should be included in a matrix or tariff table. On average across all factors,

170 participants answered this question and the majority (69 per cent) of participants answered 'yes' to all factors presented, 20 per cent answered 'no', and the remainder (11 per cent) were unsure. The views expressed were consistent across all factors.

Which factors do you think should be included in a matrix tariff table?							
Matrix/ tariff factors	Total response	Yes		No		Not sure	
		N	%	N	%	N	%
Length of time in care	172	118	69	35	20	19	11
Type of abuse	171	118	69	35	20	18	11
Period of time over which abuse took place	171	118	69	35	20	18	11
How often the abuse occurred	170	117	69	35	21	18	11
How severe the abuse was	170	117	69	35	21	18	11
Impact of the abuse	169	117	69	34	20	18	11
Loss of opportunity	169	116	69	35	21	18	11
Average Total	170	117	69	35	20	18	11

Other factors to be considered in deciding on an individual experience payment

4.178 Participants were asked to describe any other factors that they thought should be considered in deciding an individual experience payment and a total of 125 comments were used within the analysis of this question. Reflecting the figures above, most of the 125 comments relating to individual experience payments supported this as an approach to redress and identified factors that should be considered when deciding on a payment. Only a few comments were against this approach or expressed uncertainty about it.

Factors to include in individual experience payments

4.179 Although participants were asked what 'other factors' should be considered when deciding on individual experience payments, those most commonly referred to were three of the seven factors already listed in the question about a matrix/tariff table. Impact of abuse was mentioned most often. While many of these comments referred to the general impact of abuse and its long-term nature, others specified particular types of impact, including the effect of abuse on day-to-day life, the impact on mental health and on family relationships, particularly when siblings had been split-up. There were general comments about loss of opportunity; specific areas mentioned included education, employment and earnings, loss of potential and quality of life. Type of abuse was commented on by a few of the participants and specific areas mentioned included neglect, mental abuse and torture, the use of drugs to sedate children, whether a racial element or prejudice was involved, and whether there were multiple

perpetrators. The remaining four factors in the matrix – severity of abuse, length of time in care, the time period over which abuse took place and how often the abuse occurred – were also mentioned by a few participants.

4.180 While a few comments were made about the need for individual experiences to be taken into account, only five 'other factors' were specifically identified for consideration, and each was mentioned by one or two participants. These were:

- Loss of identity
- The impact of being placed in care in a totally different cultural context
- The level, or lack, of support of medical care
- vulnerability (for example, a child living in a chaotic home environment prior to; going into a care setting, or the age of the child when going into care and when abuse began)
- The impact of living in fear

Factors to exclude from individual experience payments

4.181 Although the consultation asked participants what factors should be included in an individual experience payment approach, a few comments referred to factors that should be excluded from any consideration of individual payments, including a number who said that all should be excluded. These were: the type of abuse, the length of time in care, how often the abuse occurred, and the loss of opportunity.

Concerns about individual experience payments

4.182 Only a few comments related to concerns about individual experience payments. Of these, the most common concern was about how abuse can be quantified and measured, including difficulties in making value judgements about abuse and deciding how one case of abuse is worse than another.

4.183 Concerns were raised by a few about how differences in an individual's ability to cope can affect the impact of abuse and how this could complicate any assessment of impact.

4.184 A few participants were concerned that individual experience payments placed too much of the burden of proof on individual victims/survivors, and one was concerned about the potential trauma that could result from this approach. One participant was concerned that prior criminal convictions would affect claims for an individual experience payment and called for these to be excluded from consideration. Another was concerned that this type of scheme had potential to be exploited.

Further comments on individual experience payments

4.185 Participants were provided with an opportunity to make any further comments, and 44 comments relating to individual experience payments were made.

4.186 These comments concerned factors to include in individual experience payments, factors to exclude from individual experience payments, and concerns about individual experience payments. In general, they reflected the issues outlined above.

4.187 The only additional factor identified for consideration in making a payment was the lack of through-care and support after leaving care. The only other factor identified for exclusion from any consideration was severity of abuse.

4.188 In addition, two further concerns were raised: the level of payments made and the potential lack of evidence available to older claimants.

Question 11: Standard payments

4.189 Standard payments do not take into account the different experiences of individuals or the impact that abuse has had on their lives. Under a standard payment scheme each applicant would receive the same amount regardless of individual circumstances. Participants were asked about their views of standard payments. A total of 193 comments were used within the analysis of this question.

4.190 The majority of comments (69 per cent) did not support this approach. Although this question was in relation to standard payments, 13 per cent of comments expressed support for standard payments and 15 per cent had mixed views or were unsure about the standard payment approach.

Views supporting standard payments

4.191 The most common reasons for supporting standard payments were concerned with issues of equality and fairness. Primarily, these were about the acknowledgement of all abuse, and because of the difficulties of categorisation and measurement. One participant felt that a standard payment may prevent people from misusing a financial compensation scheme and another felt that it should be given to all victims/survivors who can prove the abuse suffered.

4.192 Among those who were unsure about standard payments, a few felt that they might be helpful for those who felt unable to participate in a potentially traumatic process of providing details of their experience in order to receive an individual payment. One participant felt standard payments may be helpful as an interim payment, and another saw them as a starting point in the acknowledgement of abuse.

Views that did not support standard payments

4.193 The majority of comments did not support standard payments and covered three main issues: the inappropriateness of standard payments; perceptions of unfairness; and the failure to recognise and provide redress.

4.194 The most common reason that standard payments were thought to be inappropriate was that they do not take into consideration individual experiences

of abuse, including different levels of severity, differences in impact, and variations in the length of time of abuse and care experience.

4.195 Other comments suggested standard payments were inappropriate because they did not take into account an individual's vulnerability before entering care, the amount of support received during their time in care or after leaving care, or loss of opportunity.

4.196 A few participants expressed their support for combination payments, which combine both a standard payment and an individual experience payment, and this is dealt with more fully later in the question about combination payments. Standard payments involve all applicants receiving the same payment amount, and were perceived by a few participants as unfair, as they do not reflect differences in individual experiences. For example, they do not consider differences in severity of abuse, length of time in care and the consequences of abuse in relation to each individual.

4.197 A few participants felt that standard payments do not adequately recognise the abuse suffered and fail to provide real redress. They also fail to make victims/survivors feel like they have been listened to.

Other negative views about standard payments

4.198 Standard payments were identified by a few as the easy option for the authorities, being perceived as a way for them to avoid taking full responsibility, as well as being easier to administer.

Concerns about standard payments

4.199 A few concerns were raised about standard payments. Most common was a concern about the level of payment, that it should be of a sufficient amount to reflect the abuse suffered and ensure victims/survivors are not left feeling devalued. Other concerns were around how to measure and quantify abuse, the potential for such a system to be abused, and its failure to acknowledge the prior vulnerability of some individuals when going in to care.

Question 12: Combination payments

4.200 Combination payments combine both a standard payment and an individual experience payment. All eligible victims/survivors receive a set standard payment and there is an option to apply for an additional individual experience payment. Participants were asked for their views on combination payments. A total of 142 comments were used within the analysis of this question.

4.201 The majority of comments (52 per cent) supported this approach to financial redress and although this question was in relation to combination payments, 12 per cent of comments expressed preference for individual experience payments and a few mentioned that they were in favour of standard payments.

Support for combination payments

4.202 Thirty-six per cent of the comments in support of combination payments were general expressions of agreement with this approach. The most common specific reason for supporting a combination payment approach was a perception of fairness, including the recognition it gives to all having experienced abuse, as well as the acknowledgement that individual experiences differ. The importance of combination payments taking account of individual experience was also raised in a more general way by participants.

4.203 This approach was also preferred by participants because of the recognition it could give to both the long-term impact abuse can have on an individual's life and the level of support and care required by individuals.

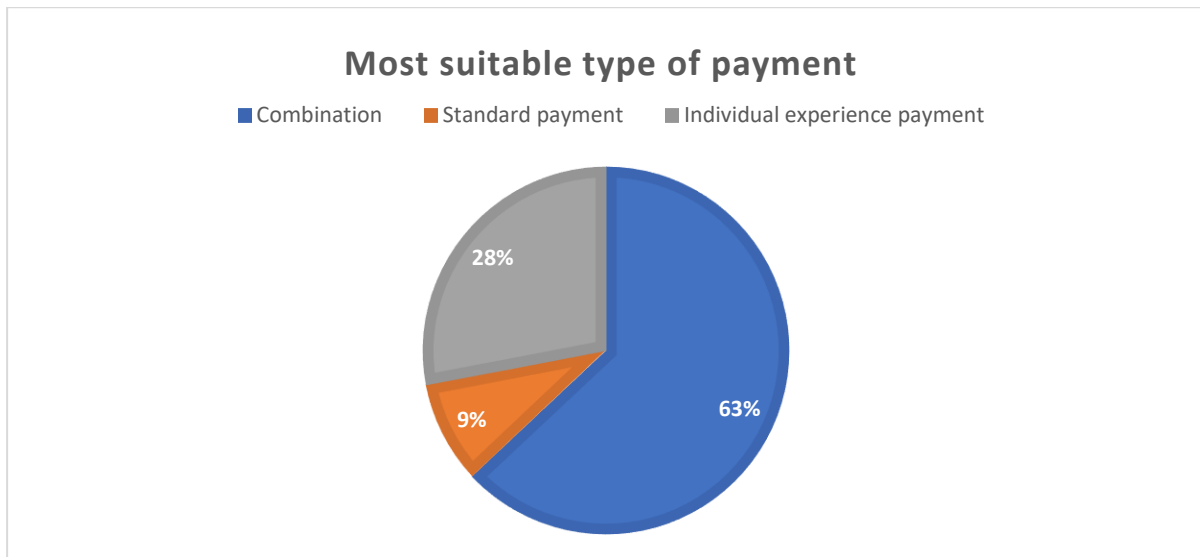
Concerns about a combination payment approach

4.204 The most common concern about the combination payment approach to redress was regarding its potential to be overly complex and time-consuming, due to the two-stage nature of the approach and the need to provide detailed information about past experiences. It was felt that applicants would need appropriate support during this process and it should be as simple as possible, so as to minimise potential for trauma due to the need for detailed information about past experiences. A few participants suggested that victims/survivors should have a choice as to whether or not to apply for an additional individual experience payment. It was also felt that it placed the burden of proof on the victims/survivors.

Question 13: What is the most suitable type of payment for a Scottish financial compensation/redress scheme?

4.205 After exploring views around the three main options for a financial redress scheme (individual experience payments, standard payments and combination payments) participants were asked to choose which of the three approaches would be most suitable for a Scottish financial compensation/redress scheme.

4.206 A total of 160 participants answered this question. Of these, the majority (63 per cent) thought that a combination approach was most suitable, followed by individual experience payments (28 per cent). A few participants (nine percent) expressed support for standard payments.



4.207 Participants were then asked for any further comments about the approach to payments. A total of 94 comments were used within the analysis of this question. Sixty of the 94 comments made addressed the approach to payments, and these have been included in the analysis below. Comments addressed each of the three specific approaches to payment, as well as payment approaches in general, although most focused on individual experience payments and combination payments.

Individual experience payments

4.208 Seventy-two per cent of the comments relating to individual experience payments expressed support for this approach. Again, this was seen as the fairest approach, in that it took into account different experiences and circumstances, such as length of time in care, type of abuse and lifelong impact.

4.209 However, as noted in relation to combination payments, some concern was expressed about how abuse would be quantified for individual experience payments and the difficulty for some victims/survivors in providing information about their past experience. It was suggested that the right support would be needed.

Standard payments

4.210 Of the few comments made about standard payments, half were in support of this approach and half were against.

4.211 Comments in support of standard payments considered that they acknowledged all abuse, were fair, and prevented unnecessary trauma to victims/survivors by not making them provide information about their experiences.

4.212 Those comments which did not support this approach considered that it failed to recognise individual experiences and that it provided an easy option for the authorities.

Combination payments

4.213 Most of the comments about combination payments were supportive of this approach. Participants described it as the fairest approach, with the standard payment element providing an acknowledgement of abuse and the individual payment element providing real redress based on individual experience. In acknowledging differences in experience and circumstances, they could address factors such as the type of abuse and length of time in care. Participants felt that allowing victims/survivors a choice about pursuing an individual payment was an important and positive aspect of the approach, as they would still receive the standard payment even if they decided not to apply for the additional element. One participant noted that the standard payment element may be helpful for those in need of urgent financial assistance.

4.214 Concerns were raised about combination payments, by one participant in each case. These involved: how to quantify abuse, whether the need to provide evidence for the individual experience payment element may deter people from making a claim, the complexity of the approach, and the associated increase in costs.

General comments on payment types

4.215 A few comments addressed more general issues. These involved the need for the consultation to consider all three approaches, the need for the victims/survivors to be at the centre of the process whichever approach is adopted, and the difficulty of deciding which approach is most suitable. A few comments suggested that the type of payment should be an individual choice for each victim/survivor, or the surviving relatives.

Question 14. Approach to determining payment amounts

4.216 Participants were asked what options should be considered while developing an approach to determining payment amounts. An average of 142 participants responded to each element of this question and of these, between 43 per cent and 44 per cent were in favour of each option being considered, 21 per cent did not think they should be considered and 36 per cent were unsure.

Which of the following do you think should be considered while developing an approach to determining payments?							
Payment approaches	Total responses	Yes		No		Not Sure	
Published information on the payment tariff structure used by the Criminal Injuries Compensation Scheme	146	64	44%	30	21 %	52	36%
Information relating to civil damages payments in other parts of UK	140	60	43%	29	21%	51	36 %

Information on payment amounts made in financial compensation/redress schemes in other countries	141	60	43%	30	21%	51	36%
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4.217 Participants were also asked to describe any other types of information that could be considered when deciding on an approach to payment and were given the opportunity to make any further comments. A total of 85 comments were used within the analysis of this question.

Information sources to help determine payment amounts

4.218 A few participants considered that all forms of information sources should be considered when looking at compensation payments and putting together a fair tariff table/matrix.

Additional information sources

4.219 Other information sources suggested by participants were:

- Data from professionals who have expertise in child abuse and its lifetime consequences for victims/survivors
- Statistics regarding victims/survivors abused in care, including race and ethnicity
- Information on financial payments issued by local authorities, including the amount paid and to whom it was paid
- Information from victim/survivor groups in other countries
- Information relating to the experience and impact of abuse, detailed in the sections on types of payment, including: information on the experience of abuse, such as severity and duration; information on the impact of abuse, such as direct medical impact (for example, disability, mental health issues) or loss of opportunity; and information on the impact on the lives of the families of victims/survivors and their children.
- It was suggested that the individualised experiences of abuse for victims/survivors was the most important consideration, and that an assessment should be conducted to assess the impact of abuse
- Two participants suggested that payment amounts should be based on the length of time waited between the abuse and achieving redress

Further detail on information options provided in consultation

4.220 As well as providing suggestions about additional information sources and approaches that could be considered when developing an approach to payment amounts, participants also used the opportunity to provide further detail about the options they chose from the list of three payment approaches provided in the consultation questionnaire:

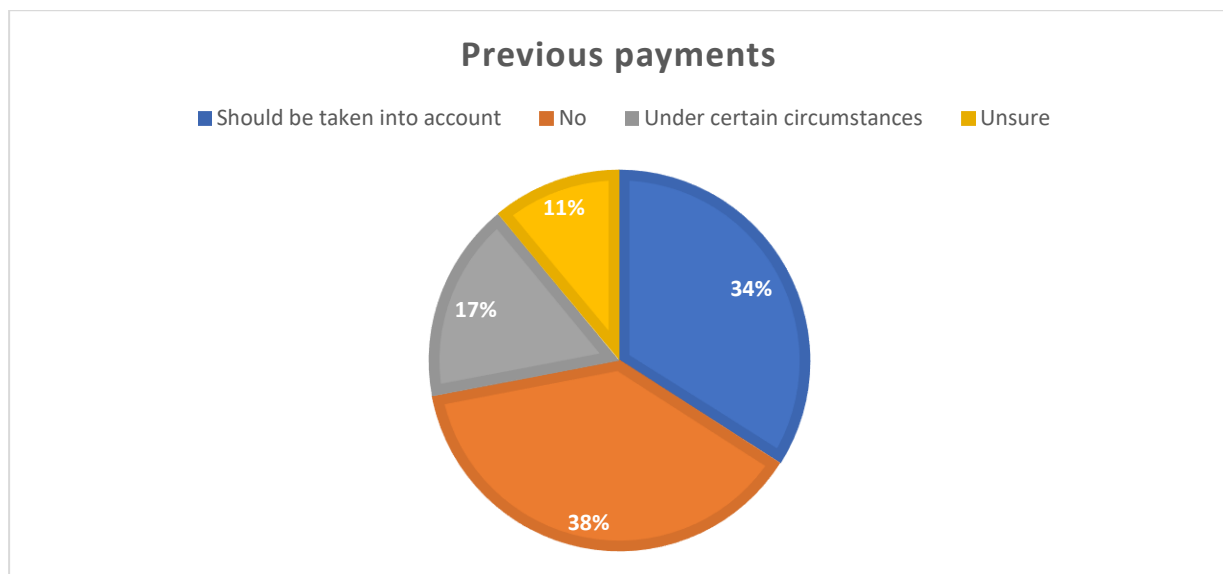
- While one view supported consideration of the Criminal Injuries Compensation Scheme, because historic abuse was a criminal act, another view was that it should not be considered because: there is currently no precedent in UK legal system that could be used to justify quantum; that it is not available to individuals with a criminal conviction; the payments are too low - they do not take account of the full experience and impact of abuse, for example loss of opportunity; and that any payment made to victims/survivors under criminal injuries would have to be repaid in the event of future compensation being awarded. There was also concern that criminal or civil justice routes would be too difficult for victims/survivors to experience.
- In relation to civil damages payments, it was suggested that any awards provided via UK court cases should be considered, including in-court and out-of-court settlements. Comparisons were made with compensation for accidents caused through negligence or slander, stressing that these should be considered as the starting point of compensation calculations.
- Participants suggested that, when considering financial compensation/redress schemes from other countries, it would be helpful to look at the payment amounts, their strengths, mistakes and lessons learned.

Approach to determining payments

4.221 Participants considered that the approach to payments needs to be fair and show consideration to victims/survivors. Five comments called for an approach that was specific to Scotland because of its individual history and experience, and that the scheme should be unique to the Scottish Government and the people of Scotland.

Question 15. Consideration of previous payments

4.222 Participants were asked whether or not previous payments should be considered by a financial compensation/redress scheme. Of the 112 comments relating to this topic, 38 per cent considered that previous payments should not be taken into account, 34 per cent considered that they should be taken into account, 17 per cent considered they should be taken into account under certain circumstances, and 11 per cent were unsure.



Previous payments should not be considered

4.223 Thirty-eight per cent of comments considered that previous payments should not be taken into account. Eleven comments reflected that previous payments were separate to financial redress. Payments from institutions were considered by some as separate, in that victims/survivors should be able to hold perpetrators to account. It was also mentioned that previous payments were dealing with different cases and, therefore, had little relevance to a financial redress scheme. Participants considered that previous payments had been privately sought by individuals and they should not have to make a choice, and that victim/survivor cases should have precedence. One participant shared the view that it was unfair to consider previous payments as victims/survivors had no way of knowing that a redress scheme would be set up.

4.224 Five comments considered that previous payments should not be taken into account because they may have been limited and insubstantial in some way. For example, they may have been based on a single incident or partial disclosure, or without the full impact of the abuse being known. Comments also identified how previous payments had been made in a context when society did not understand the severity and long-term impact of abuse. The poor handling of cases by legal professionals and the deduction of legal fees from payments were also highlighted.

4.225 Another issue identified by participants concerned the exclusion of victims/survivors from a potential financial compensation/redress scheme. Participants felt that every individual should be able to apply and therefore previous payments should not be taken into account. Participants spoke of how victims/survivors experienced harm in accessing compensation and therefore their efforts should not be used to exclude them, and previous payments should not cancel out financial redress/compensation from a potential scheme.

4.226 Linked to this was the view of two participants that victims/survivors should not be affected negatively by paying back previous payments. One participant considered previous payments were not important and another that

they should not matter. One participant also said that any future payments from a financial compensation/redress scheme or elsewhere should not be considered. Another was concerned that previous payments may be related to another country and implemented under duress.

Previous payments should be considered

4.227 Thirty-four per cent of comments considered that previous payments should be considered. Nine comments expressed the view that this would be fair, just or equitable, and individuals should be treated equally. This was linked to comments that there should only be one payment, as receiving two payments would be unfair or wrong. It was, therefore, considered to be fair that previous payments be taken into account. One perspective was that previous payments should be considered as these cases have already been 'reviewed'; another stated how these should be considered when an application to the scheme is for the same abuse experience for which the applicant has already received compensation/redress from another route.

4.228 A few participants were concerned that if previous payments were not taken into account, this could affect the amount of financial redress for other victims/survivors. One view was that redress should be prioritised for those who have not had any money previously.

Previous payments may be considered in certain circumstances

4.229 Seventeen per cent of comments considered that previous payments might be taken into account in certain situations. The level of the previous payments was raised, and how they should be taken into account if it was over a certain amount or was a significant amount. Another view was that previous payments may be considered if they were judged to be fair, based on how much was received and whether this equated to a sense of fair redress, or reflected an understanding of the impact of abuse for victims/survivors.

4.230 Five participants commented that previous payments may be considered if this was necessary or a specific requirement, such as a legal requirement, and that it was for those overseeing the scheme to decide what is fair. It was also mentioned that previous payments should be judged individually depending upon the situation. Two participants were of the view that previous payments may be taken into account if there was an option available for victims/survivors to choose which payment they keep.

Question 16: The role of the Scottish Government and others

4.231 Participants were asked about who they think should contribute to a financial compensation/redress scheme. Between 160 and 169 participants responded to each option and in each case almost all participants responding felt that the particular provider/institution should contribute to a financial compensation/redress scheme.

Who should contribute to a financial compensation / redress scheme?							
Providers/Institutions	Total responses	Yes		No		Not Sure	
		n	%	n	%	n	%
Scottish Government	169	159	94%	6	4%	4	2%
Care providers	161	151	94%	6	4%	4	2%
The local authority (or its successor) responsible for making the placement decision	161	151	94%	6	4%	4	2%
The local authority (or its successor) within which the child was placed	160	151	94%	5	3%	4	3%
Religious bodies ²⁹ responsible for the care service	162	152	94%	6	4%	4	2%

4.232 Participants were then given the opportunity to comment on the role of the Scottish Government and others. A total of 95 comments were used within this analysis.

4.233 Participants tended to comment on responsibility, accountability or contributions. There were also comments about specific roles relating to the scheme development, suggestions about next steps for redress, and concerns about the role of the Scottish Government and others.

Responsibility of the Scottish Government and others

4.234 Participants expressed that all parties presented in the sub questions are responsible for the decision making and care of children removed from their parents, and all should be held responsible for their role in historic abuse; it was noted that they all 'let down' victims/survivors and that all parties should make amends for their failures. Another viewpoint was that it was difficult to establish responsibility for decision-making, and so all parties should be responsible.

4.235 It was felt by participants that the Scottish Government should accept and take responsibility because they were responsible for victims/survivors who were looked after by organisations that the Government employed and licensed. Furthermore, participants expressed views that Government permitted local authorities 'to act in the way they did', and are responsible for 'the decisions they made in the past'. One participant conveyed that Government were also

²⁹ A religious body can be described as an entity that establishes, or directs, controls or administers, an educational or other charitable entity that is intended to be, and is, conducted in accordance with religious beliefs or principles.

responsible for 'historical racial engineering' and 'human rights abuse' that led to some victims/survivors being taken into care³⁰.

4.236 A different view was that the Scottish Government should not be responsible in some cases because of the changing relationship with the UK Government over time, for example, the UK Government were deemed to be overseeing care in some cases prior to the Scottish Government being established.

4.237 Participants considered that local authorities have responsibility and should contribute because they failed to protect the children for whom they had a duty of care, were unaware of the behaviour of their staff, and left children to fend for themselves. These comments referred to the local authorities that placed children and those that were responsible for the geographical areas and establishments where the children were placed.

4.238 It was felt that all service providers and organisations who licensed care homes or employed perpetrators of abuse should share that responsibility. Participants noted that they had a duty of care to the children and should address their failure to uphold that duty. It was also expressed that this also applies to the religious bodies who provided care services and 'covered up the abuse perpetrated by their members'.

4.239 In addition, the 'children's panel' was also highlighted as being responsible because of their role in decision-making and 'their negligence'.

Accountability of the Scottish Government and others

4.240 A few participants suggested that all parties who failed victims/survivors should be 'held to account' it was deemed disgraceful that parties are 'refusing to accept accountability', for example, for the placement of children in a 'racial engineering' project referred to as the 'Tinker Housing Experiment' in relation to the travelling community³¹. Accountability was also linked by participants to failure to ensure that care staff were experienced and scrutinised by police before gaining employment.

4.241 It was considered that the Scottish Government and the local authorities should be held equally accountable for historic abuse, that there was a systemic failure by Government, local authorities and social services to protect children, and there was further comment that they are 'culpable' for their inaction to help victims/survivors.

4.242 It was also felt by participants that religious bodies should be held to account as they are deemed to have caused so much suffering and damage.

³⁰ MacLennan, K., McPhee, R., McPhee, S. & Turbett, C. (2017). *Gypsy Travellers: Human rights and social work's role* (pp.6-7). Glasgow: IRISS. Retrieved from <https://www.iriss.org.uk/sites/default/files/2017-02/insight-35.pdf>.

³¹ Ibid.

Contribution of the Scottish Government and others to the financial compensation/redress scheme

4.243 As noted above, most participants considered that all parties should contribute to the financial compensation/redress scheme. A suggestion was that all parties should contribute a percentage to the scheme. However, it was also stated that this should not be allowed to cause delay; the scheme needs to provide survivors with timely access to redress.

4.244 It was felt by participants that it was the role of the Scottish Government to compensate victims/survivors, and that they have full responsibility to compensate victims/survivors and the next-of-kin of deceased victims/survivors for the failure to protect vulnerable children. One participant felt that the scheme development and administration costs should be 'borne by the State'. Another suggestion was that the Scottish Government should pay compensation and then reclaim it from the insurers of local authorities and religious bodies. Another participant considered that the tax payer should not have to contribute.

4.245 Two participants felt that, as there was no Scottish devolution at the time, the UK Government has a responsibility to contribute to the compensation/redress scheme.

4.246 Two participants conveyed that all service providers where abuse has been perpetrated should contribute and share responsibility.

4.247 It was also felt that religious bodies should contribute to the financial compensation/redress scheme. One participant stated that a religious body has assets which could be used for this. Another participant was 'angered' that a particular religious order denied accountability or affordability.

4.248 A few participants expressed that any individual perpetrators of abuse should contribute.

Commitment to redress

4.249 Three participants considered that the Scottish Government should take a more active lead role for what happened to victims/survivors, to show firm commitment to financial compensation/redress, and to hold all responsible to account. Two participants stressed that it is the Scottish Government's duty to ensure the financial compensation/redress scheme runs properly and without delay. One participant expressed that it should be the role of the Scottish Government to decide which parties should contribute, while another considered a particular victim/survivor support organisation should have 'the rights to decide on this'. It was expressed that the Scottish Government should ensure that all victims/survivors get access to their care records, and that organisations should be asked for the files of every family.

4.250 Three participants had concerns about the independence of the Scottish Government in terms of their role in denying victims/survivors their rights and destroying records.

Question 17: Further comments on financial redress

4.251 Participants were provided with the opportunity to provide further comment on a financial compensation/redress scheme not already covered in the questionnaire.

4.252 Seventy further comments on financial compensation/redress not already covered in the questionnaire were made within this question. All comments were about financial or broader redress, remedies and reparation and all have been incorporated within 'General Themes' at the beginning of this report.

4.253 Additionally, as previously noted, across all questions, a further 484 comments (making a total of 554 comments when including the 87 from this question) also related to financial and broader redress and have been incorporated into 'General Themes' near the beginning of this report.

5 CONCLUSION

This consultation is the first in Scotland to consider the specific matter of financial compensation/redress for victims/survivors of abuse in care. It has, from the outset, included victim/survivor representation and used a collaborative approach to the development of the process of the consultation and engagement exercise, as well as to questionnaire design. In response to the consultation questions victims/survivors have provided invaluable and detailed consideration of the issues involved in setting up a financial compensation/redress scheme.

The crucial question as to whether or not the Scottish Government should proceed with a financial compensation/redress scheme received strong support from almost all of the participants. Other questions considered many of the core operational, administration and decision-making elements that, together, would contribute to the design of a potential financial compensation/redress scheme.

There was a high level of consensus identified on a number of issues in the consultation, as well as areas where views differed. Due to the complex nature of the matters being considered, it is not surprising that there were many areas where different views were expressed. If the Scottish Government decides to proceed with a potential financial compensation/redress scheme design, then further consideration on these matters will be required to address issues and develop clarity.

A number of additional general themes emerged from the consultation, providing further understanding of victim/survivor views relating to a range of relevant issues: principles, experience and impact of abuse; trust and mistrust; meaning of financial redress; purpose and function of redress; scheme development and design; the timing of redress; accessible and available information on redress; broader redress and reparation; protection, prevention and awareness raising; and further action and investigations.

Almost all victims/survivors who took part in this consultation considered that a financial compensation/redress scheme for victims/survivors of abuse in care should be taken forward in Scotland. The InterAction Action Plan Review Group supports this view and has outlined this opinion in a set of recommendations that have been forwarded to the Scottish Government along with this report. These are outlined below.

6 RECOMMENDATIONS

Recommendations and key messages from the consultation

The Review Group presented a letter to the Scottish Government outlining the background to the consultation and engagement and detailing a set of key recommendations with these reports.

These recommendations are drawn, mainly from information gained from the consultation with victims/survivors and with reference to the other reports in the consultation and engagement series (Report 3: International Perspectives – a descriptive summary and Report 4: Initial perspectives from residential and foster care service providers and other relevant professional groups).

The recommendations paper is published separately. The recommendations are:

- **Recommendation - A financial compensation/redress scheme for victims/survivors of abuse in care should be established.**
Almost all (99 per cent) of victims/survivors who answered this question considered that a financial compensation/redress scheme should be established. The SHRC Framework highlighted that the state has a duty to ensure effective remedies for violations of human rights and this includes the need for a financial compensation mechanism that is open to all victims/survivors of abuse in care. This is not currently being provided in Scotland.
- **Recommendation – Approval of a financial compensation/redress scheme for victims/survivors of abuse in care should take place as soon as possible following detailed scheme design.**
The Review Group urges the Scottish Government to approve a financial compensation/redress scheme for victims/survivors of abuse in care as soon as possible, following detailed scheme design, and for legislation to be passed by the end of this parliamentary term, March 2021.
- **Recommendation - The preferred approach to financial compensation/redress is a combination payment.**
The majority of victims/survivors who answered this question felt that the preferred approach is a combination payment which involves a flat-rate standard payment along with an individual experience payment which takes account of a range of factors such as: the nature of abuse; the severity of abuse; the period of abuse; and the life-long consequences of the abuse. The operational design and detail will need further consideration.
- **Recommendation - Next-of-kin of deceased victims/survivors of historic abuse should be eligible to apply to a scheme.**
The majority of victims/survivors who answered this question indicate support that the next-of-kin of deceased victims/survivors should be eligible for compensation/redress. However, there were a number of cautions about the eligibility of next-of-kin, in terms of the definition of next-of-kin, personal relationships with the deceased victims/survivors while they were living, and practical operational issues. These matters require further consideration.

- **Recommendation – There should be arrangements for interim payments which would allow priority groups of victims/survivors to access payments prior to full payment.**

It was considered by the majority of victims/survivors who answered this question that it is important for priority groups of victims/survivors to access interim payments. There was a range of views regarding the criteria for these payments, in general, age and health factors were highlighted as priorities. Such interim payments should be considered in the context of further discussions about 'advanced payments' (see below).

- **Recommendation - A range of written and verbal information, where available, should be used to assess individual applications.**

Victims/survivors who answered this question considered that, where available, a range of written and verbal information should be used to assess applications, and this included: information about placement details; nature and severity of abuse experienced; information on impact of the abuse; testimony from a third party; police records of alleged or convicted perpetrators of abuse; previous or ongoing civil/criminal action; and, material prepared for another purpose. Challenges in the availability and securing of information, the impact on individuals through the process and the importance of choice were also noted.

- **Recommendation – A range of support and guidance should be put in place for applicants to assist them through the process of the scheme.**

Most victims/survivors who answered this question outlined a number of potential different types of supports to meet a range of individual and different needs at each stage through the application and payment process. These included: practical support, emotional support, financial advice, legal advice and advocacy.

- **Recommendation - Victims/survivors should be represented in the administration and governance of a full financial compensation/redress scheme.**

The value and insight offered by victim/survivor representation was highlighted by the consultation participants. Similar to the types of support, victims/survivors suggested a broad range of ways by which victim/survivors could be represented, either through the development and administration of the scheme or the individual application process. These views accord with a human rights based approach where participation is a recognised key component. Representation and participation should be significant and meaningful, involving appropriate information available in accessible formats, and the provision of necessary support and guidance.

- **Recommendation - A range of knowledge and understanding should be represented in any panel or board which will have a decision making role in the scheme.**

Victims/survivors who answered this question noted a number of suggested professional backgrounds and specified services, and highlighted the value of lived experience. Key areas of knowledge and understanding included: advocacy, finance, health, human rights law, social care, and trauma.

Recommendation - All those responsible should contribute to a financial compensation/redress scheme.

Victims/survivors who answered this question consider that all those responsible should contribute, including: Scottish Government, residential and foster care providers, local authorities which placed children in care and those which provided care placements, and religious bodies responsible for care services. The SHRC Framework also makes clear that institutions should contribute to reparation packages in a manner proportionate to the extent to which they are accountable.

- **Recommendation - Scheme design should take account of a number of key principles to ensure the integrity and effectiveness of a scheme.**

Victims/survivors who answered this question noted that the scheme will need to address important principles of choice, fairness, respect, integrity and individual experience, needs and wishes. The integrity of the scheme is crucial and it must be robust and credible; the evidence required, and the scrutiny of it, must create a balance which will deter fraudulent claims, without putting off applicants or refusing genuine applications because of lack of evidence.

- **Recommendation - It is essential that any potential negative consequences are considered during scheme design.**

The risk of any negative consequences for individual victims/survivors was highlighted by consultation participants. It is important to consider how these could be prevented and where this not possible, mitigated. This would include considering how any payment may impact on personal vulnerabilities as well as benefits, pension, or any previous payments such as criminal injuries compensation payments.

- **Recommendation – The Scottish Government should discuss next steps with the Review Group and other victims/survivors, particularly the process to take forward detailed scheme design and implementation.**

The consultation with victims/survivors identified a number of issues where there was a high level of consensus, as well as areas where views were more mixed. There were a number of matters which will require further work to ensure any implemented scheme is appropriate to Scotland and Scotland's victims/survivors of historic abuse in care. These should be taken forward in discussion with the Review Group and other victims/survivors.

Advance payment scheme

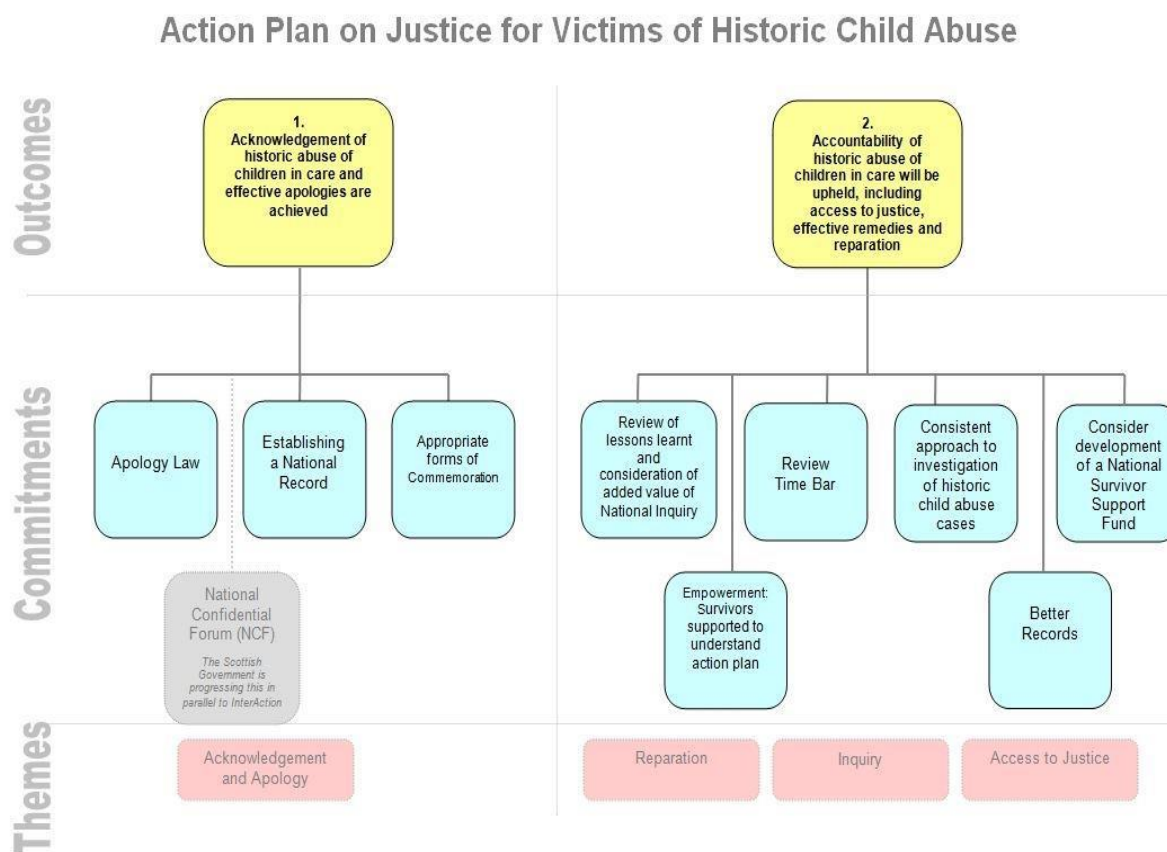
Alongside the consultation and consideration of 'interim payments', specific discussions took place concerning the status of pre-1964 victims/survivors and all the following recommendation was made in regard to an advance payment scheme.

- **Recommendation – An ‘advanced payment scheme’ for the elderly and ill should be progressed as soon as possible and before the main financial compensation/redress scheme is established in statute.**

The Review Group is currently considering further details, including eligibility matters relating to this proposal and will forward any relevant information as soon as possible.

In summary, the Review Group recommends that the Scottish Government commits to establishing a financial compensation/redress scheme, and agrees to introduce an advanced payment scheme (for ill and elderly survivors) as soon as possible. It is recommended that discussions take place with the Review Group as to how the next steps on detailed scheme design are conducted, including how others will be involved in that process. Furthermore, it is proposed that the other recommendations and key messages drawn from the consultation with victims/survivors and other engagement activities should be taken into account as part of the detailed scheme design. This includes how those responsible can contribute. Finally, that legislation for a statutory financial compensation/redress scheme should be passed before the end of this parliamentary term in March 2021.

APPENDIX 1: Diagram detailing the commitments identified in Action Plan



APPENDIX 2: Descriptive summary of initiatives and progress relating to the 'Action Plan on Justice for Victims of Historic Child Abuse'

Scottish Child Abuse Inquiry

The Scottish Child Abuse Inquiry is chaired by Lady Smith, who is supported by a secretariat, a legal team and Counsel to the Inquiry. The Inquiry's Terms of Reference sets out its remit for investigating the abuse of children in care in Scotland. The Inquiry is looking at what happened, why and where abuse took place, the effects of abuse on children and their families and whether the organisations responsible for children in care failed in their duties. The Inquiry will report the outcome of its investigations to Scottish Ministers and make recommendations including as to any changes to practices, policies and/or the law that it considers are required for the protection of children in the future.

National Confidential Forum

The National Confidential Forum was set up as part of the Victims and Witnesses (Scotland) Act 2014. The purpose is to listen to and collect the experiences of adults who were in institutional care as children. The Forum operates independently from government. Testimony forms a record about the experiences of children in care in Scotland in the past. Each year the Head of the Forum produces a report based on the testimony collected. The Forum is there to learn from the experiences and make recommendations aimed at ensuring care experiences for children in the future is as positive as possible.

Apologies (Scotland) Act 2016

The Apologies (Scotland) Act 2016 came into force in December 2016. The aim of the legislation is to make it easier for a person or organisation accused of wrong doing to issue a meaningful acknowledgement and apology, without the risk that it could be used in civil proceedings against them as an admission of liability. The hope is that this will inspire a cultural shift towards apologising in Scotland.

Future Pathways – Scotland's In Care Survivor Support Fund

Future Pathways was launched in September 2016, offering support to people who were abused or neglected as children while they were living in care in Scotland. It is supported by Scottish Government funding and is managed by a group of organisations that make up the Future Pathways Alliance.

Future Pathways offers help and support to people who were abused or neglected as children while they were living in care in Scotland. It aims to help survivors' access person-centred support that will help them to lead full, healthy and independent lives and find their own pathways to a positive future. Types of

support include work and education, community activities, counselling, psychological trauma support and access to records.

Limitation (Childhood Abuse) (Scotland) Act 2017

The Limitation (Childhood Abuse) (Scotland) Act 2017 came into force on 4 October 2017 and removes the 3 year limitation period for civil claims resulting from childhood abuse. This means that there is no longer the requirement for a victim/survivor to make a claim within three years of the abuse occurring. It also permits those who took a claim to court before the Act became law to take another claim to court if they lost because of the time bar. These changes are only relevant to abuse that took place on or after 26 September 1964³².

³² This Act does not alter the position for survivors who experienced abuse prior to 26 September 1964; see SHRC (2017) Effective Remedies for pre-1964 survivors. Retrieved from <http://www.scottishhumanrights.com/justice/historic-child-abuse/>.

APPENDIX 3: Interaction Action Plan Review Group membership

The following lists the individuals and organisations that are members of the Interaction Action Plan Review Group:

Representative	Organisation
Harry Aitkin	Independent Survivor
Josephine Duthie	Independent Survivor
Eugene Docherty	Independent Survivor
David Whelan	Former Boys and Girls Abused of Quarriers Homes (FBGA)
Helen Holland	In Care Abuse Survivors (INCAS)
Frank McCue	In Care Abuse Survivors (INCAS)
Paul Gilroy	Educating through care Scotland (EtCS)
Alison Gordon	Social Work Scotland (SWS)
Eleanor Deeming	Scottish Human Rights Commission (SHRC)
Judith Robertson	Scottish Human Rights Commission (SHRC)
Paul Anderson	Wellbeing Scotland
Jenny Hamilton	Scottish Government
Claire Soper	Scottish Government
Professor Andy Kendrick (Chair)	University of Strathclyde
Moyra Hawthorn	Centre of Excellence for Looked After Children in Scotland (CELCIS)
Estelle Carmichael	Centre of Excellence for Looked After Children in Scotland (CELCIS)

APPENDIX 4: The list of questions from the consultation with victims/survivors of abuse in care in Scotland

About you or your organisation

Question 1: Are you completing this questionnaire as (select only one):

- ☐ An individual victim/survivor
- ☐ On behalf of an individual victim/survivor
- ☐ On behalf of a deceased victim/survivor
- ☐ On behalf of a victim/survivor support organisation

Eligibility

Question 2a: In your opinion, should a deceased victim/survivor's next of kin be able to apply to a financial compensation/ redress scheme?

YES / NO / NOT SURE

Question 2b: Please tell us why you think this.

Question 2c: Please add any further comments on next of kin applications.

Information required to support applications

Question 3a: Do you think the following types of written information, if available, should be submitted in support of an application to a scheme (this may be from the victim/survivor or someone on their behalf, including their next of kin)?

(Select YES / NO / NOT SURE for each option):

- ☐ ☐ ☐ Material prepared for another purpose Placement details of in-care settings, including length of time (placement settings as defined by Inquiry Terms of Reference)
- ☐ ☐ ☐ Information on the nature and severity of the abuse experienced
- ☐ ☐ ☐ Information on the impact of the abuse, including medical or other treatment received because of it, as well as impact on other areas of life
- ☐ ☐ ☐ Police records of any allegations, convictions or related matters
- ☐ ☐ ☐ Information about any action taken or payment received in relation to previous or ongoing civil litigation or criminal injuries compensation
- ☐ ☐ ☐ Testimony from a third party – a person or agency that the individual has known and knows their circumstances and experiences
- ☐ ☐ ☐ Material prepared for another purpose.

Question 3b: Please describe any other types of written information that you think could be submitted to support an application to the scheme.

Question 3c: Please add any further comments on written information required to support applications.

Verbal Evidence

Question 4a: If a victim/survivor cannot provide any written information, should they have the option to provide verbal evidence?

YES / NO / NOT SURE

Question 4b: Please tell us why you think this.

Question 4c: Please add any further comments on providing verbal evidence.

Choice of support for victims/ survivors making an application

Question 5a: Would it be useful for applicants to a scheme to have access to practical support?

YES / NO / NOT SURE

If yes, what would you want this to include?

Question 5b: Would it be useful for applicants to a scheme to have access to emotional support?

YES / NO / NOT SURE

If yes, what would you want this to include?

Question 5c: Would it be useful for applicants to a scheme to have access to financial support?

YES / NO / NOT SURE

If yes, what would you want this to include?

Question 5d: Would it be useful for applicants to a scheme to have access to legal support?

YES / NO / NOT SURE

If yes, what would you want this to include?

Question 5e: Would it be useful for applicants to a scheme to have access to advocacy?

YES / NO / NOT SURE

If yes, what would you want this to include?

Question 5f: Would it be useful for applicants to a scheme to have access to other kinds of support?

YES / NO / NOT SURE

If yes, what would you want this to include?

Question 5g: Please add any further comments on choice of support or advice for victims/survivors.

Development, administration and decision making

Question 6. How do you think victims/survivors could be represented in the development and/or administration of a scheme?

Decision making

Question 7a: What areas of knowledge and understanding could be applied when assessing applications?

(Select YES / NO / NOT SURE for each option):

- ☐ Advocacy
- ☐ Finances/Financial compensation assessment
- ☐ Health
- ☐ Human rights law
- ☐ Law
- ☐ Social care
- ☐ Trauma

Question 7b: Please describe any other areas of knowledge and understanding that could be applied when assessing applications.

Priority Circumstances

Question 8a: It may be possible to prioritise some applications to a financial compensation/redress scheme (select only one):

- ☐ Should some applications be prioritised?
- ☐ Should all applications be treated the same?
- ☐ Not sure

If you feel that some applications should be prioritised, go to Question 8b.

If you feel that all applications should be treated the same, or are not sure, go to Question 8d.

Question 8b: If you feel that some applications should be prioritised, under what circumstances should this happen?

Question 8c: Please tell us why you think this.

Question 8d: Please add any further comments on priority circumstances.

Making decisions on interim payments

Question 9a: Should interim payments be made available in some circumstances?

YES / NO / NOT SURE

If yes, what circumstances should be considered for an interim payment?

Question 9b: Please tell us why you think this.

Question 9c: Please add any further comments on interim payments.

Individual experience payments

Question 10a: What factors do you think should be included in a matrix or tariff table?

(Select YES / NO / NOT SURE for each option):

- ☐ ☐ ☐ Length of time in care
- ☐ ☐ ☐ Type of abuse (for example, sexual, physical, emotional, neglect, systemic)
- ☐ ☐ ☐ Over what period of time the abuse took place
- ☐ ☐ ☐ How often the abuse occurred
- ☐ ☐ ☐ How severe the abuse was
- ☐ ☐ ☐ Impact of the abuse
- ☐ ☐ ☐ Loss of opportunity

Question 10b: Please describe any other factors that you think should be considered in deciding on an individual experience payment.

Question 10c: Please add any further comments on individual experience payments.

Standard payments

Question 11: What are your views on standard payments?

Combination payments

Question 12: What are your views on combination payments?

Types of Payment

Question 13a: Considering the three different types of payment approach outlined above, which approach do you think would be most suitable for a Scottish financial compensation/ redress scheme?

(Select only one):

- ☐ Individual experience payment
- ☐ Standard payment
- ☐ A combination approach

Question 13b: Please add any further comments on types of payments.

Approach to determining payment amounts

Question 14a: Due to the limited number of civil cases in Scotland, information on previous payments is limited. Which of the following do you think should be considered while developing an approach to determining payments?

(Select YES / NO / NOT SURE for each option):

- ☐ ☐ ☐ Published information on the payment tariff structure used by the Criminal Injuries Compensation Scheme
- ☐ ☐ ☐ Information relating to civil damages payments in other parts of the UK³³
- ☐ ☐ ☐ Information on payment amounts made in financial compensation/redress schemes in other countries

Question 14b: Please describe any other forms of information that you think should be considered.

Question 14c: Please add any further comments on the approach to determining payment amounts.

Previous payments from other routes

Question 15: What are your views on whether or not previous payments should be considered by a financial compensation/redress scheme?

The role of Scottish Government and others

Question 16a: Who do you think should contribute to a financial compensation/redress scheme?

(Select YES / NO / NOT SURE for each option):

- ☐ ☐ ☐ Scottish Government
- ☐ ☐ ☐ Care providers

³³ A religious body can be described as an entity that establishes, or directs, controls or administers, an educational or other charitable entity that is intended to be, and is, conducted in accordance with religious beliefs or principles

- ☐ ☐ ☐ The local authority (or its successor) responsible for making the placement decision
- ☐ ☐ ☐ The local authority (or its successor) within which the child was placed
- ☐ ☐ ☐ Religious bodies³⁴ responsible for the care service

Question 16b: Please add any further comments on the role of Scottish Government and others.

A scheme for Scotland

Question 17a: Do you think the Scottish Government should introduce a financial compensation/redress scheme for victims/ survivors of abuse in care?

YES / NO / NOT SURE

Question 17b: Please include any further comments you may have on a financial compensation/redress scheme not already covered in the questionnaire.

³⁴ A religious body can be described as an entity that establishes, or directs, controls or administers, an educational or other charitable entity that is intended to be, and is, conducted in accordance with religious beliefs or principles.

APPENDIX 5: Management and tracking the movement of comments across questions

In the endeavour to incorporate all qualitative responses into the analysis, a system to manage and track the movement of comments was used; for example, in cases where a participant's response to a question provided comment on various different themes (for example, one response could discuss the impact of abuse, the meaning of financial redress and suggestions for a scheme design), we 'split' the response (into the different elements) to incorporate all comments within the analysis. In instances where a comment, or indeed a whole response, related to another question entirely, it was included within the analysis of the question it related to, rather than the original question in which it was sourced. In the rare occasion where one comment related to two themes or questions, it was duplicated and incorporated within both.

For clarity, the total 'number of comments' used within the qualitative analysis of each question comprises:

- The total number of relevant comments left within that question plus any relevant comments from other questions.
- The total number excludes comments that are incorporated within general themes (refer to the General Themes section of this report) and those that do not provide any further information, for example, 'N/A' or 'nothing further to add'.

Table - comment management (post analysis)

QUESTION No.	Q1	Q2	Q3	Q4	Q5a	Q5b	Q5c	Q5d	Q5e	Q5f	Q5g	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16	Q17	TOTALS
Total initial responses received	0	189	145	187	132	122	107	109	94	82	67	147	92	274	262	150	139	141	61	116	120	96	72	2904
Split comments (additional no. only)	0	36	57	37	44	42	30	6	14	43	17	40	17	120	87	86	68	13	33	16	11	21	35	873
Duplicate comments (additional no. only)	0	0	1	0	0	0	3	0	0	0	0	0	0	1	0	0	1	0	0	0	0	3	2	11
Total comments	0	225	203	224	176	164	140	115	108	125	84	187	109	395	349	236	208	154	94	132	131	120	109	3788
Comments relating to other questions:																								
General themes	0	7	8	11	11	53	38	13	2	57	29	12	7	48	42	52	9	3	17	29	6	30	70	554
Q1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	3
Q2	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	2
Q3	0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0	1	0	2	3	0	0	0	8
Q4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Q5a	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	2	0	0	4
Q5b	0	0	0	0	0	0	0	0	0	0	0	0	4	0	0	0	0	0	1	1	0	0	2	8
Q5c	0	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	3
Q5d	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Q5e	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Q5f	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Q5g	0	0	2	0	0	0	0	0	0	0	0	0	1	1	1	0	0	0	0	0	0	0	2	7
Q6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2	4
Q7	0	0	0	0	0	0	0	0	0	0	0	8	0	0	0	3	0	0	0	0	1	0	0	12
Q8	0	0	0	0	0	0	0	0	0	0	0	0	5	0	0	0	0	0	1	0	2	0	0	8
Q9	0	0	1	0	0	0	4	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0	7
Q10	0	0	4	0	0	0	3	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	5	14
Q11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
Q12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Q13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
Q14	0	1	1	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	2	0	0	6

QUESTION No.	Q1	Q2	Q3	Q4	Q5a	Q5b	Q5c	Q5d	Q5e	Q5f	Q5g	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16	Q17	TOTALS
Q15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
Q16	0	1	1	0	0	0	0	0	0	0	1	0	0	1	0	1	0	1	2	1	1	0	3	13
Q17	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total comments used for other questions	0	10	18	12	11	53	45	13	2	57	30	21	19	53	43	57	12	4	24	38	14	31	90	657
Q not answered (total excluded comments):	0	7	14	4	2	5	4	2	5	0	3	10	7	7	13	24	4	8	10	15	18	7	19	188
Response not understood	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	2	0	1	0	1	0	1	7
Nothing further to add	0	7	10	4	2	5	3	2	5	0	2	8	7	4	13	19	1	6	5	10	3	6	5	139
Comments about this consultation	0	0	3	0	0	0	1	0	0	0	1	2	0	3	0	4	1	2	4	5	2	1	4	33
Data entry comments	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9	9
Comments relating to this question	0	208	171	208	163	106	91	100	101	68	51	156	83	335	293	155	192	142	60	79	99	82	0	2943
Comments inserted from other questions	3	2	8	0	4	8	3	0	1	0	7	4	12	8	7	14	1	0	1	6	1	13	0	103
TOTAL COMMENTS USED FOR THIS QUESTION	3	210	179	208	167	114	94	100	102	68	58	160	95	343	300	169	193	142	61	85	112	95	0	3046

APPENDIX 6: Summary of the verification process and findings

Aims of the verification process

Independent verification of the consultation process was carried out by Simon Anderson (independent research consultant) and Alison Hosie (Research Officer, Scottish Human Rights Commission). The aims were:

- To provide a rigorous and independent assessment of how the consultation with victims/survivors was conducted and how the findings of the consultation were arrived at and presented
- To offer challenge and support in relation to the project as it was being completed, and future consultation work in this area

The verification process

The verification process drew on the seven principles of the Consultation Charter of the Consultation Institute³⁵, namely: Integrity, Accessibility, Visibility, Transparency, Disclosure, Fair interpretation, and Publication.

The initial stage of the verification process was conducted in November/December 2017 and involved site visits to CELCIS, discussions with staff, and analysis of written documents (this did not include access to personal or identifying details of any participants). Initial findings were presented to the InterAction Action Plan Review Group on 13 December 2017.

The second stage of the verification process was conducted in June 2018 by Simon Anderson and involved further interviews, discussions and reviews of draft reports.

Summary of the findings of the verification process

Victim/survivor involvement in the consultation design

- There was *'no evidence of tokenism, decisions already taken or broader signs of 'bad faith' on the part of SG [Scottish Government] or CELCIS'*.
- There was also *'a clear and demonstrated commitment to involving survivors in the consultation design, taking account of their needs and generating awareness of the exercise'*.

Consultation timescales

- The analysis phase of the consultation took longer than originally envisaged, which was *'perhaps sub-optimal in terms of providing prompt feedback to participants'*.
- The main reason for the delay was the large volume of responses received... *"Given the volume of responses received, the sensitivity of the topic and the range of stakeholders involved, publication of findings of the consultation by the summer of*

³⁵ Further details about the seven principles are available at <https://3d8qxnz7q9pw2411lsz7k14t-wpengine.netdna-ssl.com/wp-content/uploads/2017/11/The-Consultation-Charter-2017-edition.pdf>.

2018 does seem to be consistent with the requirement for this to happen within a 'reasonable time frame'".

- *'The [analysis] process as a whole was begun promptly and efforts were clearly made to keep participants and other stakeholders informed about the analysis and publication timescales as they evolved'.*

Storage of consultation responses

- *'There was evidence of a highly systematic approaches to logging, storing and verifying responses'.*
- The verifiers noted that, at an early stage in the consultation, the research team had identified and actioned an issue about separation of consultation responses from any identifying details. This apart *'the data security arrangements were exemplary'.*

Analysis of consultation responses

- The verifiers observed that *'there was substantial evidence that the team gave due consideration to each questionnaire submitted - and indeed to each individual response within those. Indeed, strenuous efforts were made to account for each response'³⁶.*
- There was *'no evidence of members of the team being influenced in the coding or presentation of the data by external factors or 'political' considerations'.*
- The coding process was *'subject to a range of appropriate quality assurance procedures', with 'multiple opportunities to challenge, clarify or amend the coding' which 'provides substantial reassurance that responses were indeed treated fairly and objectively'.*
- The management of the analysis process as a whole *'was highly systematic and compared favourably with similar exercises conducted in other settings'.*

Reporting participant responses within the consultation:

- The verifiers recommended that the reports should be very clear about the limitations of the exercise. Specifically, they need to highlight the fact that the results are based on the views of *those who responded to the consultation.*
- The verifiers noted that the research team attempted to adopt the language used by participants when reporting participants responses and that *'the overall approach is consistent with the commitment to give due consideration to all responses received'.*

Consultation reports

- The verifiers noted that the main report and executive summary *'undoubtedly provide stakeholders with a wealth of information about the output and outcome of the consultation with victims/survivors'.*

³⁶ Refer to the methodology section at the beginning of this report for further details of the handling of responses.

Accessibility of reports

- The methodology section of the report was observed to be *'somewhat technical – using the language of 'thematic analysis' and inductive and deductive coding'*.
- The verifiers recommended that written outputs are considered, particularly in relation to individual victims/survivors with literacy difficulties and that consideration should be given to producing an 'easy read' version and/or other forms of dissemination.

Consultation recommendation letter

- The verifiers observed that the letter of recommendations to the Deputy First Minister was *'measured and evidence-based'*.

Conclusions of the Verifiers about the consultation process

- The verifiers concluded that *'the second stage of the verification exercise has reinforced the view that the consultation has been conducted sensitively and appropriately, and that the principles of the Consultation Charter have been largely adhered to'*.
- The consultation team is to be *'commended for its efforts to include victims/survivors in the development of the questionnaire and the process more generally; to ensure multiple ways of accessing the consultation and to provide support for those needing it; for handling all responses confidentially and securely; and for the highly systematic approach to the management, coding and analysis of data'*.
- The verifiers considered the main areas for improvement were *'in relation to the transparency of the process for and timing of publication; the need for clarity about the limitations of the exercise; and the accessibility of the final reports for those unused to reading complex or technical documents'*.